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BOARD MEETING
STATE OF CALIFORNIA
INTEGRATED WASTE MANAGEMENT BOARD

JOE SERNA, JR., CALEPA BUILDING
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ALSO PRESENT

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Terry Leveille, TL & Associates

Pat Lucia, GeoSyntec

Mike Mohajer

Julie Ryan, GeoSyntec

Larry Sweetser, ESJPA

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INDEX

	Page
I. CALL TO ORDER	1
II. ROLL CALL AND DECLARATION OF QUORUM	1
9. Consideration Of The Biennial Review And SB 1066 Time Extension Processes	3
11. Discussion And Request For Rulemaking Direction On Noticing Revisions To The Proposed Regulations For Waste And Used Tire Hauler Administrative Civil Penalties For An Additional Comment Period Or Consideration Of Adoption Of The Proposed Regulations For Waste And Used Tire Hauler Administrative Civil Penalties	54
12. Consideration Of Scope Of Work And Contractor For The 6th Waste Tire Management Conference (Tire Recycling Management Fund, FY 2003/04)	60
Motion	67
Vote	67
Motion	67
Vote	68
13. Consideration Of The Grant Awards For Senate Bill 1346 Rubberized Asphalt Concrete Grant Program For FY 2003/2004 And FY 2004/2005	68
Motion	76
Vote	76
14. Consideration Of The Grant Awards For The Waste Tire Enforcement Grant Program For FY 2003/2004	3
15. Consideration Of Approval Of The Evaluation Of The Northern And Southern California Rubberized Asphalt Concrete Technology Centers Report	76
Motion	94
Vote	94
20. Semi-Annual Update And Publication Of The Inventory Of Solid Waste Facilities Which Violate State Minimum Standards	95

INDEX

	Page
21. Report On The Current Status Of Construction And Demolition Debris Handling Activities Known To Be Existing Prior To August 2003	41
22. Public Hearing And Consideration Of Adoption Of Proposed Amendments To Regulations For Local Enforcement Agency Certification Requirements For Technical Expertise Resolution 2004-88	99
Motion	101
Vote	101
23. Discussion And Request For Rulemaking Direction To Notice For 45-Day Comment Period Proposed Regulations For Long-term Gas Violation	101
24. Presentation And Discussion Of The Draft Task 6 Report Of The Landfill Facility Compliance Study, Review Of MSW Landfill Regulations From Selected States And Countries	9
25. Consideration Of The Grant Awards For The Unified Education Strategy Grant Program For Cycle Two FY 2003/2004	37
Motion	40
Vote	40
VIII. PUBLIC COMMENT	105
IX. ADJOURNMENT	106
X. REPORTER'S CERTIFICATE	106

1 PROCEEDINGS

2 CHAIRPERSON MOULTON-PATTERSON: Good morning,
3 and welcome back to our April Board meeting.

4 We have a very full day today, and we're going to
5 be having a lot of things out of order, so I ask for your
6 patience.

7 And if you'll call the roll, Ms. Waddell.

8 SECRETARY WADDELL: Paparian?

9 BOARD MEMBER PAPARIAN: Here.

10 SECRETARY WADDELL: Peace?

11 BOARD MEMBER PEACE: Here.

12 SECRETARY WADDELL: Washington?

13 BOARD MEMBER WASHINGTON: Here.

14 SECRETARY WADDELL: Moulton-Patterson?

15 CHAIRPERSON MOULTON-PATTERSON: Here.

16 Ms. Peace, ex partes.

17 BOARD MEMBER PEACE: No. I'm up to date.

18 CHAIRPERSON MOULTON-PATTERSON: I'm up to date.

19 Mr. Paparian.

20 BOARD MEMBER PAPARIAN: Yes. I had several.

21 Marianne Evashenk and Linda -- I'm not sure of her last
22 name, from the Sjoberg Evashank Firm regarding the agenda
23 item related to the RAC center evaluation. I met several
24 of the GeoSyntec representatives who are here for the -- I
25 think it's Item 24 on the report on landfill compliance.

1 And then just meet and greet with Chuck Helget,
2 with John Cupps, and with Steve Larson.

3 CHAIRPERSON MOULTON-PATTERSON: Okay. And Mr.
4 Washington.

5 BOARD MEMBER WASHINGTON: Thank you, Madam Chair.
6 Meet and greet with Chuck Helget, John Cupps, and
7 Mike Mohajer.

8 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

9 Ms. Peace, did you have an item that you wanted
10 to address at this point?

11 BOARD MEMBER PEACE: Well, I'm still, I guess,
12 not sure what we decided to do with Number 9, the SB 1066
13 good faith effort.

14 CHAIRPERSON MOULTON-PATTERSON: Mr. Leary -- did
15 you want me to have Mr. Leary go first and then call on
16 you?

17 BOARD MEMBER PEACE: Yeah. Let him go first.

18 CHAIRPERSON MOULTON-PATTERSON: Mr. Leary, can
19 you give us an update on this very confusing second day?

20 EXECUTIVE DIRECTOR LEARY: Let me make the
21 picture clear for all of us.

22 CHAIRPERSON MOULTON-PATTERSON: Okay.

23 EXECUTIVE DIRECTOR LEARY: Actually, we had some
24 good discussions yesterday in regards to Agenda Items 9
25 and 14, and we had some good discussions in the twelve or

1 so hours since we adjourned yesterday. But I don't know
2 that we're quite ready to come back to the Board and
3 resolve either of those items.

4 What we'd like to do, Madam Chair, with your
5 blessing, is to continue Agenda Items 9 and 14 to next
6 month, allow us to work on some of the issues that were
7 raised, and come forward to the Board with those items in
8 the May Board meeting.

9 But I understand there is some discussion
10 continuing around Agenda Item 17, so I'll turn it back to
11 the Board.

12 CHAIRPERSON MOULTON-PATTERSON: Right. Okay.

13 Ms. Peace.

14 BOARD MEMBER PEACE: On Agenda Item 17, out of
15 respect for Senator Sher and my appointed authority, I'm
16 asking this item be pulled. And we do still need to look
17 at this, and we will be looking at this in the future.

18 I guess the concern I have about this is, on one
19 hand, we have, you know, a Senator asking us to pull it.
20 On the other hand, we have a report here from the Senate
21 Advisory Commission on cost control in government, and one
22 of their recommendations to us is, "In an effort to bring
23 the controversy surrounding energy recovery from tires to
24 the end, the Board should increase public awareness of the
25 benefits of using waste tires for energy recovery as a way

1 of diverting large numbers of waste tires away from
2 landfills and stockpiles." So it's like we're damned if
3 we do and we're damned if we don't.

4 You know, the Board and everyone here at the
5 Board are very concerned about the environment, very
6 concerned about the health of our children. We wouldn't
7 be here if we weren't. I would like to know -- you know,
8 I'm very concerned about our children's health. I would
9 like to know why so many of my children's friends carry
10 inhalers. You know, I don't think necessarily that's
11 coming from burning tires. I would like to put to rest
12 the fact, is burning tires safe or safer than burning
13 coal? And I don't know what the opposition is afraid of
14 to put that issue to rest.

15 So you know, I'd like maybe even go a step
16 further. I mean, I don't know what they're so afraid of.
17 Maybe we need to know is making charcoal and using your
18 barbecue safer than burning tires? I mean, maybe using
19 your barbecue is worse than using tires.

20 Maybe using your fireplace is worse than burning
21 tires. Are you willing to go that far? Are you willing
22 to say we shouldn't use our barbecues if we find out
23 they're safer? Wouldn't you like to put to rest the fact
24 that burning tires could be safer than burning coal? I
25 think I would like to know that.

1 We have a big tire problem here in the state.
2 Maybe we'd like to push RAC. Yeah. Sure. We're over at
3 the Legislature trying to push the use of RAC. If we
4 could get the state to use a lot of tires in RAC, maybe we
5 wouldn't have a tire problem. But who knows. Maybe
6 somebody could say the emissions coming off of a RAC
7 project are worse than burning tires in a cement kiln.

8 So I am looking to pull this item now. But I
9 want to see the report discussed in the future.

10 CHAIRPERSON MOULTON-PATTERSON: So you're asking
11 for it to be continued?

12 BOARD MEMBER PEACE: Yes.

13 CHAIRPERSON MOULTON-PATTERSON: Okay. And you
14 know --

15 BOARD MEMBER PEACE: The other thing that
16 concerns me on this same front is we have all these
17 conversion technologies coming forward. And you hear from
18 people, gosh, are conversion technologies just
19 incinerators in disguise? Are we going to pull every item
20 and not discuss when it comes to conversion technologies?
21 These kinds of things concern me.

22 So for today, I'm asking that Number 17 be
23 pulled. But this is probably not the end of it. I'd like
24 to see it discussed in the future.

25 CHAIRPERSON MOULTON-PATTERSON: If I might

1 request something. Could you possibly, as our Senate
2 representative, meet with some of the Senators so we can
3 know -- have an idea on their wishes so we can take that
4 into consideration, and then we can put this back on?

5 BOARD MEMBER PEACE: Uh-huh. Sure.

6 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.
7 I appreciate that commitment.

8 Mr. Leary, did you --

9 EXECUTIVE DIRECTOR LEARY: Yes, Madam Chairman.
10 I neglected in my opening remarks to talk a little bit
11 about the schedule for today. If I might make a
12 suggestion to the Board, I think we're ready and able to
13 present Agenda Item 24 first. We have our contractors
14 from the Bay Area here, and they're ready to go.

15 And then there is some time sensitivity around
16 Agenda Item 21. If I can get concurrence with Deputy
17 Director Levenson, we still want to have that done this
18 morning, Agenda Item 21.

19 DEPUTY DIRECTOR LEVENSON: If we can.

20 EXECUTIVE DIRECTOR LEARY: So if we can, okay.

21 So if we can go from 24 to 21, and then we can
22 proceed back to 11 through the rest of the agenda.

23 CHAIRPERSON MOULTON-PATTERSON: Okay. Perhaps
24 we'll get everything done this morning. I'm an optimist.
25 Anyway, we will start with 24 and 21.

1 But before we do, I did have a request for a very
2 brief comment by Mr. Mohajer. Mr. Mohajer, if you'd like
3 the come forward.

4 MR. MOHAJER: Good morning, Madam Chair, members
5 of the Board.

6 The reason I came over here from the Conversion
7 Technology Workshop is that I want to express my
8 appreciation to all the staff, the Board staff, that did
9 work on this. Being an old bureaucrat, I know the type of
10 work they had to do to come up to some agreement with all
11 the stakeholders. Not everything was to my agreement, but
12 it most was.

13 So I want to thank Shirley Wagner, John Sitts,
14 and Jeff, and my old, old friend from the old days, Bob
15 Conheim, which goes back to the mid '80s. So that's my
16 only purpose. And I appreciate for calling on me. And
17 they really did an excellent job. Thank you.

18 CHAIRPERSON MOULTON-PATTERSON: It's nice to see
19 you, Mr. Mohajer. Thank you.

20 Mr. Paparian.

21 BOARD MEMBER PAPARIAN: Yeah. I'll try to be
22 real brief, but I feel like I should just briefly say
23 something about this tire issue, since it's come up.

24 I think that a lot of us who have looked at this
25 issue kind of know the general direction we would have

1 gotten from the results of this study. It would have been
2 more updated than some of the past studies. But
3 generally, you can find some facilities where the air
4 quality has improved in some, particularly with NOx, when
5 you burn tires. You can find other facilities where it
6 has not improved, and where it has actually caused some
7 health problems or caused some pollutants, which could
8 lead to health problems. And a lot of it has been
9 dependent on how the facilities have operated and how they
10 have taken care of the fuel source.

11 So I don't think that the OEHHA Study would have
12 provided necessarily the definitive conclusion on the
13 health issues. I think they would remain. I think that
14 the evidence that I've seen points in both directions.
15 And I think it would continue to point in both directions,
16 but we would have a better understanding about why it
17 points in both directions.

18 So I don't think that we're going to -- I don't
19 think we should believe that the OEHHA Study would have
20 led to the definitive conclusion, but I think it would
21 have provided more information that would be useful in our
22 evaluations.

23 CHAIRPERSON MOULTON-PATTERSON: Thank you,
24 Mr. Paparian.

25 I'm getting lots of notes here about this agenda.

1 My plan -- and if anyone has a different request, I'll
2 consider it. But it's to go with 24 -- and please check
3 me here, Mr. Leary. I know we went out of order
4 yesterday, too. 24, 21, 11, 12, 13, 15, 20, 22, and 23.

5 I have a request here for 25 to be considered.
6 Is there someone going to be gone? Okay. We'll take 25.

7 And let me read it one more time. We'll take 24,
8 21, 25, 11, 12, 13, 15, 20, 22, and 23. Is that correct?
9 Okay. Okay.

10 Then we'll go right into Item Number 24, which is
11 a Presentation and Discussion of the Draft Task 6 Report
12 of the Landfill Facility Compliance Study.

13 And I believe Ms. Packard --

14 MS. PACKARD: Thank you, Madam Chair. Good
15 morning, Board members. Rubia Packard with the Policy
16 Office.

17 Today we're presenting for your discussion the
18 Draft Task 6 Report of the Landfill Facility Compliance
19 Study, which is a review of MSW landfill regulations from
20 selected states and countries.

21 We have the contractors here today to go through
22 their presentation on the study; Julie Ryan, who's the
23 project engineer; and Pat Lucia, who's a principal with
24 GeoSyntec Consultants. To start with, Bobbie Garcia from
25 the Policy Office, who's been the project manager for us

1 on this, will briefly review with you the work that was
2 supposed to be done as part of the landfill study, and
3 then we'll have the presentation from the contractors.

4 (Thereupon an overhead presentation was
5 presented as follows.)

6 MS. GARCIA: I just quickly want to go over where
7 we are with the study.

8 Phase 1 was the part of the study that assessed
9 the environmental performance of MSW landfills across the
10 environmental media.

11 Task 1, which is part of Phase 1, was the
12 checklist of MSW regulations that are pertinent to
13 environmental oversight of landfills. That was completed
14 on April 11th, 2002.

15 Task 2, which was the large cross media inventory
16 of the 224 MSW landfills, that was completed April 9th,
17 2003.

18 Task 3, which was the Phase 1 Report that
19 summarizes all the results of the screening analysis that
20 was performed on the inventory, which was done to better
21 understand environmental performance at MSW landfills,
22 that was completed and presented to the Board on October
23 15th, 2003.

24 The Phase 2 portion of the study, which is the
25 one that is actually looking at the effectiveness of our

1 MSW regulations. Under that we have -- let me switch the
2 slide.

3 --o0o--

4 MS. GARCIA: Under that, we have Task 4, which is
5 the more in-depth look at 53 of the MSW landfills to
6 better understand if their environmental performance is
7 related to current regulation. That Task 4 will be
8 presented at the same time as Task 5, and that's scheduled
9 for the May 2004 Board meeting.

10 Task 5, that's the report that will summarize the
11 results of the Task 4 analysis or the information that has
12 been gathered to see the role the current regulations play
13 with regard to compliance to better understand regulatory
14 effectiveness.

15 And then Task 6, which is being presented today,
16 which is the look at other states and countries and what
17 they're doing with MSW regulation.

18 Task 7, which was the report on emerging
19 technologies, looking at those that could possibly be used
20 in California to improve the operation of California's
21 landfills, that was completed and presented to the Board
22 at its November 18th, 2003, meeting.

23 And the Task 8, which will summarize the results
24 and also give some additional findings, that is scheduled
25 for the June 2004 Board meeting.

1 So unless you have any questions on what is
2 coming ahead and what has already proceeded, I'm going to
3 turn it over to Julie Ryan and Pat Lucia who are with
4 GeoSyntec.

5 CHAIRPERSON MOULTON-PATTERSON: Thank you. We
6 have no questions, Ms. Garcia, so we'll go right ahead.

7 (Thereupon an overhead presentation was
8 presented as follows.)

9 MS. RYAN: Thank you, Madam Chairwoman. My name
10 is Julie Ryan. I'm here today to present the results of
11 the review of MSW -- to present the results of the review
12 of the MSW landfill regulations from selected states and
13 countries.

14 --o0o--

15 MS. RYAN: Like I said, my name is Julie Ryan,
16 and I perform the regulatory review and served as the task
17 coordinator and primary author of the report. Michael
18 Minch and Pat Lucia served as collaborators and reviewers
19 for this report. It should be recognized the study was a
20 collaborative effort between GeoSyntec and the rest of the
21 study team. The study team, which consists of Bobbie
22 Garcia, Ed Wosica, Joe Mello, Mike Watnick, Rinaldo Crooks
23 also provided extensive input and assistance into the
24 completion of this task.

25 But that said, the statements, conclusions, and

1 recommendations that were contained in the report are
2 those of the contractor, GeoSyntec.

3 --o0o--

4 MS. RYAN: The primary goal of this Task 6 Report
5 is to recommend elements of other states' and countries'
6 regulations that, if applied in California, could possibly
7 improve the regulation of the MSW landfills.

8 To do this, we reviewed existing regulations to
9 identify the states and countries that will be the most
10 relevant to this study. We identified eight states and
11 five countries, and collected the regulations from these
12 jurisdictions for review. In some cases it was difficult
13 to gather the existing regulations due to language
14 barriers or inaccessibility of the regulations. And in
15 those cases, we relied more on information provided by
16 experts from the different countries than on the
17 regulations themselves.

18 During the review of the existing landfill
19 regulations from the eight states and five countries, we
20 identified those specific elements of the regulations that
21 represented a significant difference from the California
22 regulations. A detailed evaluation of those regulations
23 was performed, and recommendations were developed. The
24 evaluation and development of recommendations for this
25 report was complicated, because each regulation has the

1 potential to impact multiple media.

2 To help you in a review of the report, let me
3 give you a brief overview of how the report is organized.
4 The organization of the report is presented in Section 2.1
5 of the report.

6 Section 1 provides an executive summary of the
7 findings of the report.

8 Section 2 presented the purpose and method for
9 study of the report.

10 Section 3 presents the regulations from the eight
11 states.

12 Section 4 presents a summary of the regulations
13 from the five countries.

14 Section 5 provides a discussion of selected
15 regulations.

16 And Section 6 provides our recommendations.

17 --o0o--

18 MS. RYAN: This slide presents the eight states
19 selected for evaluation in this study. The states were
20 generally selected because they have specific
21 characteristics, like New Mexico, which has a unique
22 climate, or New York, which requires double liner systems
23 for new waste containment units. The eight states
24 reviewed in the study include Washington, New Mexico,
25 Wisconsin, West Virginia, Pennsylvania, New Jersey,

1 Delaware, and New York.

2 --o0o--

3 MS. RYAN: This slide presents the five countries
4 that were selected for evaluation. These countries were
5 selected for a variety of reasons, including accessibility
6 to the regulations and to provide a distribution of
7 social, political, and geographical characteristics.

8 The countries selected for evaluation include,
9 Brazil, South Africa, Japan, Australia, as well as the
10 European Union. Australia has independent regulations for
11 each state, rather than federal regulations for the whole
12 country. So the regulations from the states of Victoria
13 and New South Wales were included in the study.

14 The European Union, or EU, is set up similar to
15 the United States with an umbrella set of regulations that
16 governs the member countries, allowing more stringent
17 regulations to be applied in individual countries. So
18 this study focused on the EU directive, as well specific
19 regulations from the United Kingdom and Germany.

20 --o0o--

21 MS. RYAN: The study focused on environmental
22 protection and how it would be impacted by design rather
23 than operations and maintenance issues. So to simplify
24 our review of the existing MSW landfill regulations, we
25 developed this breakdown of logical topics by which to

1 organize the regulations. All of the regulations we
2 reviewed in this study fall under one of these topics.
3 However, there were no state regulations identified for
4 special handling of waste, and there were no country's
5 regulations reviewed for groundwater monitoring. All the
6 other topics are included in both the states' and
7 countries' regulations.

8 A summary of the regulations that fall under each
9 of these topics are presented in Section 3.2 of the report
10 for the states and Section 4.2 of the report for the
11 countries.

12 --o0o--

13 MS. RYAN: This slide provides an example of how
14 the existing regulations were presented in tabular form in
15 the report. The presentation of the regulations for the
16 states and countries were identical, except that the
17 states' regulations were compared to the U.S. federal
18 regulations, as well as California's regulations. This
19 was done because the U.S. federal regulations represent
20 the minimum allowable level of enforcement within the
21 United States and provides a basis for comparing the other
22 states. These tables were presented at the end of the
23 report, and key items were discussed in Section 3 for the
24 states and Section 4 for the countries.

25 --o0o--

1 MS. RYAN: After reviewing all of the available
2 regulations for the states and countries, a subset of
3 individual regulations was identified for further review
4 based on significant differences in either intent or
5 detail to the California regulations.

6 For example, a significant difference of detail
7 was identified in the New Mexico regulations with respect
8 to a siting criteria for separation from groundwater. In
9 New Mexico, the minimum allowable separation from
10 groundwater is 100 feet, whereas in California it's 5
11 feet. So this regulation was selected for further
12 evaluation of the potential impacts that adopting such a
13 regulation could have on landfill siting in California.

14 In this way, we identified 19 regulations from
15 the eight states and five regulations from the five
16 countries that we felt warranted further review and
17 consideration.

18 --o0o--

19 MS. RYAN: To allow for a consistent evaluation
20 of the 24 regulations, we developed this list of criteria
21 for discussion of each of the regulations. The
22 environmental protection benefit was evaluated based on
23 conditions found in California. The potential costs and
24 savings associated with implementing the regulation were
25 identified. The potential for the regulation to affect

1 design procedures and site operations was considered. We
2 reviewed the cross media inventory that was developed for
3 Task 2 of this Landfill Compliance Study, and we presented
4 relevant information on existing California landfills in
5 this report.

6 This process was used to help us develop
7 recommendations on the individual regulations based on
8 conditions that are actually found in California.

9 And lastly, we wanted to find out if any
10 literature exists on the performance of each regulation.
11 So we performed a literature review using the Internet.

12 --o0o--

13 MS. RYAN: Now I'd like to walk through one of
14 the more straightforward examples to give you an idea of
15 how the individual regulations were evaluated in the
16 report.

17 The example we're presenting is with regard to a
18 requirement for processing or treating waste prior to
19 disposal in an MSW landfill. The basis for this example
20 is an EU requirement strictly limiting the volume of
21 biodegradable waste that enters the landfill. This
22 regulation is relatively new to the European Union and has
23 been widely praised as a step towards sustainable
24 landfiling.

25 When we talk about pre-processing, we're talking

1 about mechanical, biological, or thermal pre-treatment.
2 Some examples of this would be recycling, shredding,
3 composting, anaerobic pre-treatment, or incineration, and
4 details of these methods and others were discussed in the
5 Task 7 Report of this study.

6 The environmental impacts of implementing a
7 similar regulation in California are expected to be
8 largely positive. By removing biodegradable components of
9 the waste, we remove the potential for unanticipated
10 releases to the environment.

11 --o0o--

12 MS. RYAN: However, there are both positive and
13 negative impacts on cost that would be expected from
14 implementing a requirement for pre-processing. There can
15 be high capitol costs associated with some treatment
16 methods. There's a potential for increased waste handling
17 costs, and byproducts of some of the processes may require
18 treatment, such as liquid waste that would result from
19 anaerobic pre-treatment.

20 Conversely, there's a potential source of revenue
21 from the sale of byproducts, such as recycled materials,
22 compost, or fly ash. In addition, pre-treatment reduces
23 air space consumption and increases longevity of existing
24 landfills. There also may be a potential for future
25 savings in landfill gas control systems and groundwater

1 remediation.

2 --o0o--

3 MS. RYAN: With respect to design procedures,
4 implementing a requirement for pre-processing waste may
5 result in changes in the characteristics of MSW that
6 enters the landfills. This may, in turn, require changes
7 in procedures and methods of designing landfills. We have
8 not identified specifically how the characteristics may
9 change, but recognize that these changes should be
10 considered during design. It should also be recognized
11 that some of the methods for pre-processing are still in
12 the development stages and should be designed on a site
13 specific basis.

14 With respect to site operations, the addition of
15 on-site waste processing facilities are expected to impact
16 how waste is handled at the site.

17 --o0o--

18 MS. RYAN: The cross media inventory was reviewed
19 for pertinent information with respect to waste
20 pre-processing. The number of sites which are currently
21 implementing pre-processing technologies were identified.
22 In this case, it's 5 of 224 existing MSW landfills.

23 The way in which the cross media inventory is
24 referenced might be different for different regulations.
25 This regulation would be applicable to all landfills, so

1 we've identified where the pre-processing has been
2 implemented this far. For other regulations, such as
3 depth to groundwater regulation that I mentioned earlier,
4 it was more appropriate to identify instead the number of
5 landfills that would meet that criteria.

6 We also use the cross media inventory to identify
7 how these sites are performing using the dependent
8 environmental performance variables that were defined in
9 conjunction with Task 3 of the Landfill Compliance Study.
10 In this case, the information is statistically
11 insignificant, because the data set is so small.

12 It should be recognized that the inventory is not
13 all inclusive. In this case, we know that there are
14 pre-processing facilities off site from landfills that
15 were not captured in the data set.

16 --o0o--

17 MS. RYAN: Lastly, we performed an Internet
18 literature search. Several articles on this topic were
19 identified, but only one was readily available to us for
20 review. This article evaluates performance of the
21 European Union pre-processing requirement under
22 hypothetical scenarios, because the regulation is too new
23 to reliably document the actual performance. The results
24 of the study suggests that the regulation should perform
25 as expected to reduce the volume of waste entering the

1 landfill and to reduce uncontrolled emissions from
2 landfill.

3 --o0o--

4 MS. RYAN: So after performing this type of
5 detailed evaluation for each of the 24 individual
6 regulations, we developed recommendations for 22 of them.
7 After further investigation, two of the regulations that
8 had been originally selected for review were found to have
9 similar enough intent to the California regulations as to
10 not warrant a full evaluation or the development of
11 recommendations for changes.

12 --o0o--

13 MS. RYAN: Based on our review of the selected
14 regulations, we compiled some general findings. The
15 California regulations appear to be less specific than the
16 regulations from the eight selected states. The
17 California regulations appear to be similar to the five
18 countries reviewed, in that they're all attempting to
19 accommodate highly variable site conditions. And the
20 California regulations appear to have found a balance
21 between flexibility and specificity appropriate to the
22 heterogeneity of the state.

23 Given that, we recommended six regulations for
24 further consideration in California.

25 --o0o--

1 MS. RYAN: First, we recommended that California
2 consider adopting multiple prescriptions for base liner
3 systems, a type of tiered structure based on site
4 conditions. This type of structure is being implemented
5 in South Africa where the prescriptive base liner for a
6 new cell is defined based on landfill size, rainfall, and
7 evaporation characteristics. More protective liners are
8 required at large sites and wet areas than at small sites
9 and in dry areas.

10 This type of system provides a structure under
11 which site-specific conditions may be considered and gives
12 more direction to the local agency in regulating their
13 jurisdiction than do the current California regulations.
14 This system could provide efficiency in the design and
15 installation of liners, but could also be structured to
16 require more protective systems if it's warranted.

17 If this type of system were developed for
18 California, it should be recognized -- it should be
19 designed to accommodate the site characteristics that
20 would be encountered in the state.

21 In addition to landfill size, rainfall, and
22 evaporation, a tiered structure could also consider
23 population density, subsurface conditions, and proximity
24 to useful groundwater in defining the appropriate base
25 liner system for a site.

1 Current trends in regulating California landfills
2 have resulted in some sites be required to implement more
3 protective liner systems than other sites with similar
4 conditions in different jurisdictions. By developing a
5 tiered structure of minimum base liner requirements, more
6 guidance would be given to both regulators and to owners,
7 which may result in more equal protection of the -- more
8 equal application of the regulations across the state.

9 --o0o--

10 MS. RYAN: Second, we have recommended that a
11 standard be developed for defining the end of post-closure
12 care. The existing regulations require that waste in the
13 landfill no longer pose a threat to groundwater quality,
14 public health and safety, and the environment. This
15 requirement is somewhat ambiguous and not well defined.
16 Other countries, such as Japan and Australia, defined the
17 end of post-closure care based on physical criteria such
18 as the results of environmental performance monitoring.

19 We're recommending that similar criteria be
20 defined for release from post-closure care in California
21 based on leachate quality, landfill gas generation, the
22 results of groundwater monitoring, and the level of
23 degradation of the waste mass. This would result in the
24 end of post-closure being evaluated based on site-specific
25 conditions, as it is now, but using an acquirable standard

1 for all sites.

2 Additional research is required to define these
3 physical criteria prior to changing the regulations. But
4 more landfills in California are reaching the end of the
5 post-closure care period, and this topic should be
6 addressed.

7 --o0o--

8 MS. RYAN: Third, we're recommending that a
9 requirement for pre-processing waste be considered for
10 California. As I mentioned earlier, this type of
11 regulation has been recognized as a big step toward
12 developing sustainable landfilling practices worldwide.

13 However, we acknowledge this type of regulation
14 may be faced with hurdles specific to California, so that
15 further evaluation should be performed to identify the
16 technologies that could be implemented to meet the
17 requirement to consider the social and physical
18 constraints found within the state and to evaluate the
19 level of benefit that is expected for the imposed cost.
20 This evaluation should be performed before making any
21 changes to the existing regulations.

22 --o0o--

23 MS. RYAN: We also identified three other
24 regulations that may be appropriate for consideration in
25 California. These include a siting requirement that

1 considers the distance to existing wetlands, a siting
2 requirement that considers the proximity to water supply
3 wells, and more restrictive landfill gas control
4 requirement for explosive gasses at the property boundary.
5 These three regulations were all more restrictive in other
6 states than they are in California.

7 Prior to recommending any actual changes, a
8 quantitative evaluation of the existing regulations should
9 be performed. If the existing California regulations are
10 sufficiently protective of the environment, then no
11 changes to these would be recommended.

12 And I will take any questions.

13 CHAIRPERSON MOULTON-PATTERSON: Thank you very
14 much.

15 I'll get my question screen on here.

16 Mr. Paparian.

17 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.

18 There are some very interesting recommendations
19 in here. I especially appreciated some of the information
20 about the pre-treatment efforts in Europe and so forth.

21 The one thing that, to me, was missing in this --
22 and I'm not sure if it's going to come elsewhere or not --
23 is the area where the Waste Board puts a lot of its effort
24 in the programs related the landfills or the state minimum
25 standards and adherence to the state minimum standards

1 that we have in California. I know that other states do
2 things differently.

3 I just pulled up some information about
4 Pennsylvania where just last October they fined a landfill
5 \$1.37 million. And they put a lot of emphasis in
6 Pennsylvania on issues of odor, dust, truck traffic going
7 into landfills, and so forth, things that, if it was in
8 California, would be in the state minimum standard and
9 enforcement arena.

10 Are we going to get it in this compliance study
11 information about things that would apply to our state
12 minimum standards, things that other states are doing that
13 if we were to adopt them, would we adopt them through
14 state minimum standards, or things other states are doing
15 with regards to enforcement we aren't doing?

16 MS. GARCIA: At this part of the study they
17 didn't get into the compliance part of it. It was more
18 focusing -- I think a lot of the study has been focusing
19 on design, the features of the landfill itself, and then
20 the compliance with that for California. When they went
21 to look at other states and countries, it was to compare
22 the same areas that we looked at in Task 2, which was the
23 type of liners, does it have a gas control system in
24 place, the setting, more of design of the landfill rather
25 than -- it never really got involved with operation.

1 Now, all of those are state minimum standards
2 that they were looking at. And we did look at compliance
3 in terms of -- and again, for grading of the slopes, gas,
4 if they were out of compliance and gas control emissions
5 or if they were out of compliance in terms of leachate, it
6 would be of that nature. We didn't get into the area of
7 dust control or anything of that nature.

8 As for other states, I don't think they were
9 looking at that. I don't think that was the direction we
10 were heading. It was more of looking at, do they require
11 double liners and has that been more effective in New York
12 to have double liners, and should California consider
13 something like that. So --

14 BOARD MEMBER PAPARIAN: Again, for what we do --
15 I mean, our ongoing efforts are geared at ongoing
16 compliance at the 170-odd landfills in California.

17 What would be really interesting to me would be
18 to know are other states doing things differently. Are
19 other states require -- I understand there are different
20 requirements when you open the landfill and when you close
21 the landfill. But during the ongoing operation, all those
22 years in between, which is where we put most of our staff
23 efforts and energy, can we get some of the information
24 about what other states are doing differently and whether
25 that might be applicable to California, both in terms of

1 the standards they're using and the enforcement criteria
2 and enforcement programs?

3 Can we get -- I mean, it is a Landfill Compliance
4 Study. I was a little surprised it wasn't in this part of
5 the study. I would hoped it would be somewhere in the
6 Landfill Compliance Study we would have that information.

7 MS. GARCIA: I know for looking at other states
8 and countries they did not look at like compliance by
9 other states in terms of dust control or in compliance
10 with any of it. They looked only at those specific
11 features.

12 And even at that, it was a great -- I'm not going
13 to say it's a problem with the landfill study. I'm going
14 to say it's the issue of the landfill study is it's
15 tremendous in size. It's a cross media study, and it's
16 not only looking at the Waste Board end of it, it's
17 looking at the Water Board and the air districts. And
18 it's huge. And trying to just get down into all the
19 design requirements going across media has been a very
20 large undertaking.

21 And then when GeoSyntec went in and looked at
22 other countries and states, again, it's a tremendous
23 volume of information because you're not just looking at
24 specific one part of management of the landfill. You're
25 looking at the whole picture.

1 And so we focused it down for looking -- and this
2 is part of the actual contract. When we initiated the
3 contract, we tried to keep it at a certain level and not
4 get down into operating or into Cal OSHA requirements or
5 employee safety and health. It focused basically on the
6 development, design. And it would be ongoing operation in
7 terms of groundwater monitoring, cover, daily cover, all
8 the different units as you're adding and expanding to a
9 landfill, if you're using a lined cell, if you're putting
10 in groundwater monitoring wells. It would be things in
11 that area. But it's just that you have to focus it to a
12 point, because it was just so much to be looking at and
13 trying to make sense of it.

14 BOARD MEMBER PAPARIAN: Again, I think what we
15 deal with and what we hear the most concern about is the
16 ongoing operation of a landfill. Are there going to be
17 odor problems? Are there going to be emissions of some
18 sort that might be of concern to a community? Is the
19 truck traffic being handled in a certain way? Is there
20 dust? And I know that different states regulate all these
21 things different ways. In terms of compliance, you know,
22 Landfill Compliance Study, to me, that's part of the
23 compliance issue.

24 MS. GARCIA: Right. And in the contract, the
25 scope of work that was developed for the contract,

1 initially, it never got down to dust and the day to day
2 operations, other than the groundwater monitoring, the air
3 emission, the gas control, all of those things are day to
4 day operations as well. That's what the study focused in
5 on, not some of these other areas.

6 And odor could be related to it indirectly,
7 because if you handle your waste properly, you may not
8 have the odor problem. So directly looking at the design,
9 looking at some of the things the study is looking at, it
10 will help you in your day to day operations. But it
11 didn't do the comparison of the day to day operations.

12 BOARD MEMBER PAPARIAN: In the stuff that you did
13 look at, did we look at what happens if there's not
14 compliance?

15 MS. GARCIA: That's what we've been looking at.
16 The Task 2 inventory was looking at which landfills are in
17 compliance with gas control, or are they having gas
18 problems? Are they having leachate or drainage surface
19 water? Those are the types of things that are in the
20 inventory right now to show if they're having a compliance
21 problem or if they're in corrective action with Water
22 Board or in evaluation monitoring with the Water Board.
23 Those are the areas they're looking at.

24 And then what Task 4 is going to do is take,
25 knowing those landfills were identified as having these

1 problems, what does that mean, and how does that relate to
2 the regulations that we have? So an example would be if a
3 landfill is having a lot of leachate problems, is that
4 because the liner was installed incorrectly? So it's
5 trying to find why the landfill is not in compliance.

6 BOARD MEMBER PAPARIAN: In terms of looking at
7 other states, if another state sees a problem with
8 compliance in one of those areas, did we look at what they
9 do in response? Do they fine? Do they shut the landfill
10 down? Do they have requirements? What type of
11 requirements? How quickly do they require it to get into
12 compliance?

13 MS. RYAN: We didn't do that detailed a study,
14 for one reason. The Landfill Compliance Study framework
15 is having us look in Task 2. It was collecting all that
16 sort of information for all the landfills in California.
17 And we're going into further detail now and looking at
18 just that sort of information for the landfills in
19 California.

20 In order for us to address how the other states
21 and countries are responding to compliance issues, we
22 would have had to develop the same sort of database for
23 all of those states in order to produce a reliable result.
24 And that was outside the scope of the contract.

25 BOARD MEMBER PAPARIAN: I'm not sure how that --

1 to me, there's a huge, huge gap here in terms of a lot of
2 the stuff we do in terms of the operation of ongoing
3 landfills. That's what our whole LEA program is primarily
4 geared towards. They deal with occasionally the opening
5 of a new landfill and occasionally with the shutdown of a
6 landfill. But most of what our LEAs are doing is the
7 stuff in between.

8 And I mean, to me, it would be very instructive
9 in terms of a compliance study to know how other states
10 handle the ongoing compliance and enforcement. And if
11 it's not in this study, maybe we need to have an
12 additional study that would do that. Because I think in
13 terms of what the Board has the power to do, it's in that
14 area.

15 MR. LUCIA: I think that's a great question. I
16 think, for example, if somebody in New York had been doing
17 this study and that question had been raised and they
18 asked, you know, what's the state of compliance in
19 California and they came here three years ago, you
20 couldn't have answered that question, because there was no
21 single point that you could go to to look at that data.

22 I think California now is unique in the country
23 in the sense that after the Task 2 database was put
24 together, you can come to California and you can look at
25 220-something landfills and can look at all the issues

1 you're raising, and you can answer those types of
2 questions, other than the O&M type of questions.

3 But this type of study really is unique in this
4 country and in the world, as far as we know, in collecting
5 and understanding the state of compliance of landfills.
6 And so I think it makes it very difficult to go to New
7 York or New Jersey or Pennsylvania and anywhere and ask
8 that and get that question answered.

9 BOARD MEMBER PAPARIAN: But again, what I'm
10 looking for is what does New York or Pennsylvania do to
11 assure their ongoing compliance? It looks like last
12 October Pennsylvania fined a landfill \$1.37 million, a
13 single landfill, you know. Are other states emphasizing
14 fines? Are they emphasizing, you know, other forms of
15 getting landfills into compliance? And are they using
16 different standards to judge whether they're in
17 compliance? And could we benefit by some of the
18 standards? Do we need better odor standards?

19 I don't know. Maybe we have the best in the
20 country. But we're not getting that answer from the
21 study. We're not getting the answer about whether we're
22 the best or whether there is opportunities to change some
23 of our state minimum standards. That's my frustration in
24 looking at this.

25 MR. LUCIA: I think what we're getting is we can

1 look across the country and around the world. We can
2 compare the standards. We can look at our standards, and
3 that's what this study does, it looks at our standards and
4 it compares standards in other locations. And we've
5 addressed some areas where we think the standards in
6 California may not be as strict as in other locations.

7 Now, it's a different question than saying, you
8 know, if you have a standard, how is it enforced, which is
9 kind of what you're getting at. And what's the result of
10 having that standard? And we can answer that question in
11 California, because we have an enormous database on 224
12 sites. And so we can go into that database for any
13 particular cross media area that you'd like to look at in
14 more detail. But we can't at this moment go anywhere else
15 in the world and ask and answer that same question, other
16 than to do this study in other states and other locations.

17 So what we're left with at this point and sort of
18 the evolution of regulations around the country and world
19 is there's a whole series of standards that have been
20 adopted, some more stringent, some less stringent. And
21 each country and state has different levels of compliance
22 with that, which are to a large degree unknown except for
23 California.

24 BOARD MEMBER PAPARIAN: Again, we're selective --
25 my frustration is we were selective in which standards we

1 compared to other states. It appears we didn't take our
2 range of minimum standards and compare them to what's
3 being done in other states. We didn't see what standards
4 they have that we don't have. We took a subsection of our
5 state minimum standards, those relating to opening and
6 closing landfills, and we didn't take the in between.

7 I'm hoping that before we get the study done that
8 we can figure out some way, even if it's quick matrixes,
9 to look at other states, what they do in terms of state
10 minimum standards and some of the areas that we have and
11 what they do in terms of enforcement.

12 MS. GARCIA: I just want to reiterate, the scope
13 of work for the landfill study that the contract is based
14 on is dealing with that subset of state minimum standards.
15 So the contract itself does not include looking at or
16 beyond into some of these more operating state minimum
17 standards.

18 CHAIRPERSON MOULTON-PATTERSON: Ms. Garcia, maybe
19 this is something that our staff could look at quickly on
20 the Internet or whatever.

21 I mean, I feel Mr. Paparian's frustration because
22 we both vividly remember Senator Romero questioning us on
23 fines in our confirmation hearing. It would be good to
24 know what fines have been levied in other states at a
25 comparison. And I don't think it would be that hard,

1 maybe not in the scope of this. But maybe we can just
2 look internally, because it's something I'm concerned
3 about, too. And we certainly were called on the carpet
4 about it.

5 So thank you.

6 Anything else, Mr. Paparian?

7 BOARD MEMBER PAPARIAN: No.

8 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you
9 very much.

10 And I promise you this is going to be the last
11 change of the day, but Item 25 is a pretty short item so I
12 think -- and someone came in especially on vacation to
13 present this, so I think we'll go with Number 25. This is
14 going to be presented by Joanne Vorhies, our Acting
15 Director of Education and Environment.

16 Ms. Vorhies.

17 OFFICE OF EDUCATION AND THE ENVIRONMENT ACTING
18 ASSISTANT DIRECTOR VORHIES: Thank you, Madam Chair, Board
19 members. I'm Joanne Vorhies. I'm with the Office of
20 Education.

21 And Item 25 is Consideration of the Grant Awards
22 for the Unified Education Strategy Grant Program for Cycle
23 Two Fiscal Year 2003/2004. And Becky Williams of my staff
24 is here to present this item.

25 CHAIRPERSON MOULTON-PATTERSON: Thank you.

1 Good morning, Ms. Williams

2 MS. WILLIAMS: Good morning.

3 Thank you, Joanne.

4 Good morning, Madam Chair and Board members.

5 I'd like to begin by thanking you for
6 accommodating our request to take this item out of order.
7 I truly appreciate that.

8 This agenda item seeks your approval for Cycle
9 Two funding for the grantees that you are currently
10 participating in the Unified Education Strategy Grant
11 Program. As you may recall, the Board approved the UES
12 Grant Program as a two phase or two cycle program. It is
13 designed to award the same grantees up to \$38,000 of Cycle
14 Two funding to implement Phase 2 of their programs.

15 A requirement of the grantees at the conclusion
16 of Phase 1 was to submit an application which details what
17 and how they plan to proceed with the work they began last
18 summer. Of the 13 UES grantees that received Phase 1
19 funding, eight submitted plans which have been reviewed
20 and accepted by their CIWMB grant managers.

21 The five who did not submit plans have chosen not
22 to continue participating for various internal reasons,
23 but all five grantees have been cooperative with our
24 request to conduct exit interviews and to collect summary
25 information and the deliverables they produce during Phase

1 1.

2 The grant managers and our primary consultants
3 are confident we can continue to build strong
4 relationships with the UES grantees wishing to participate
5 in Phase 2. You can find the list of grantees on Page 2
6 of the agenda item.

7 With all the existing pressures on schools and
8 districts, it is heartening to know that there are
9 educators and administrators out there who want to promote
10 environmental literacy with students. We urge you to
11 accept our recommendation and approve Cycle Two funding
12 for the UES grantees.

13 In conclusion, we look forward to returning in
14 the future to the Board to provide you with an update on
15 the progress we're making with the UES teams and possibly
16 invite some of those team members to address the Board on
17 what they've experienced through this program. Thank you
18 for your time, and we would welcome any of your questions.

19 CHAIRPERSON MOULTON-PATTERSON: Thank you very
20 much.

21 Ms. Peace.

22 BOARD MEMBER PEACE: The five grantees that
23 dropped out, it didn't have anything to do with the
24 program? They were all internal problems?

25 MS. WILLIAMS: That's what we've heard from them.

1 We've received written letters and correspondence from
2 them. Most of it is due to staff turnover, teachers
3 moving to different grade levels, internal issues
4 happening within their districts, new programs that
5 they're having to implement, and competing priorities. So
6 we've asked and investigated further with them, and it's
7 not really anything related to the program itself.

8 BOARD MEMBER PEACE: Okay. If there are no
9 further questions, I'd like to move Resolution Number
10 2004-93, Consideration of the Grand Awards for the Unified
11 Education Strategy Grant Program for Cycle Two Fiscal Year
12 2003/2004.

13 BOARD MEMBER WASHINGTON: Second.

14 CHAIRPERSON MOULTON-PATTERSON: We have a motion
15 by Ms. Peace, seconded by Mr. Washington to approve
16 Resolution 2004-93.

17 And before we call the roll, I'd just like to say
18 thank you. I know you've worked very hard on this, and
19 it's very much appreciated.

20 Please call the roll.

21 SECRETARY WADDELL: Paparian?

22 BOARD MEMBER PAPARIAN: Aye.

23 SECRETARY WADDELL: Peace?

24 BOARD MEMBER PEACE: Aye.

25 SECRETARY WADDELL: Washington?

1 BOARD MEMBER WASHINGTON: Aye.

2 SECRETARY WADDELL: Moulton-Patterson?

3 CHAIRPERSON MOULTON-PATTERSON: Aye.

4 Now we'll go to Item 21. Mr. Levenson, thank you
5 for your patience.

6 DEPUTY DIRECTOR LEVENSON: Thank you, Madam
7 Chair.

8 Good morning, Board members.

9 Item 21 is a Report on the Current Status of the
10 C&D Debris Handling Regulations and the Activities Known
11 to be Existing Prior to August 2003.

12 CHAIRPERSON MOULTON-PATTERSON: Okay. And I just
13 want to say happy birthday a day late to Mr. de Bie.

14 Mr. de Bie, I wanted to wish you happy birthday
15 yesterday, and I forgot. I hope you had a nice day here
16 with the Board.

17 PERMITTING AND INSPECTION BRANCH MANAGER: I did.

18 CHAIRPERSON MOULTON-PATTERSON: Good.

19 DEPUTY DIRECTOR LEVENSON: Madam Chair and Board
20 members, thank you for acknowledging Mark's birthday.

21 We're going to be reporting to you today on the
22 status of implementation of the C&D and inert debris
23 processing regulations which became effective on August
24 9th of last year.

25 To date, we have been busy primarily focused on

1 initial implementation of the regulations. This has meant
2 working with LEAs to provide guidance on the regs and on
3 the associated permit and enforcement requirements in that
4 regulatory package. As part of that, we've also attempted
5 to glean some information from the LEAs about the impacts
6 of the regulations on C&D business decisions.

7 We recognize that the information we have is
8 limited for several reasons. First of all, we only know
9 of 37 existing sites that were existing prior to August
10 2003. We feel there are more sites out there, but we need
11 more information from LEAs and other sources about other
12 activities so they can be checked out. Some of those
13 might be transfer station permits, regardless of whether
14 they were C&D regulations. But regardless, the info that
15 we have is from an LEA perspective and not from a direct
16 survey of businesses themselves. So we recognize that
17 this is just preliminary information.

18 Mark is going to go ahead and review the
19 information we have to date. Then we'd be happy to
20 discuss with you whether any additional work is needed.

21 PERMITTING AND INSPECTION BRANCH MANAGER: Thank
22 you, Howard.

23 Thank you, Madam Chair, for acknowledging yet
24 another birthday.

25 I'll ask you to recall back to almost -- or over

1 a year ago in April 2003 when the Board did adopt Phase 1.
2 And at that time, the Board directed staff to come back
3 with a report on the impact of the regs six months after
4 the regs became in effect. As Howard indicated, that was
5 in August of 2003. So we're right around six months here
6 a little late coming to you with this report.

7 Prior to and after the regs came into effect,
8 Board staff was working with LEAs in getting information
9 out to them about the requirements in the regs. We
10 actually did something that we don't usually do relative
11 to reg development, but I think we'll do it in the future,
12 is we downloaded almost all of the information we had,
13 background information, descriptive information, Power
14 Point presentations, lots and lots of information that we
15 had developed on the C&D regs, and put it on a CD that we
16 mailed to every LEA jurisdiction, indicated to them that
17 there were additional CDs available they could pass out to
18 operators for their benefit and use. And then also
19 offered individualized training at the request of the LEAs
20 on the C&D regs. This is just one of the things that
21 staff did that was out of the usual relative to this reg
22 package.

23 We interacted with the LEAs quite a bit in round
24 tables, in terms of clarifying the information and the
25 requirements in the regs. We also started a new process

1 for C&D and also attached the compostable material regs
2 into this process, where as questions came to staff and
3 responses were developed, we captured those and put them
4 through a review process which included legal review and
5 our bit by bit posting the questions and responses on our
6 web page as sort of a frequently asked question sort of
7 thing, which is a unique thing for C&D and compostable
8 materials. So that's just sort of recapping what staff
9 has been doing since April and August of last year.

10 In the item, as Howard indicated, the current
11 list contains 37 sites, and there are probably more.
12 Occasionally when we're talking to LEAs or operators or
13 consultants, they indicate they're aware of other sites.
14 We ask them for specifics, and we usually don't get the
15 specifics. But at least there's an indication that there
16 probably are additional sites out there that aren't on
17 this list.

18 But right now today we have 37. Of those 37,
19 seven of them -- that were identified, again starting back
20 in January 2003, seven of them have ceased operations.
21 They are no longer operating. And the main reasons given
22 by LEAs of why they believe they stopped operating is that
23 there was inconsistency with their operation and the local
24 land use requirements.

25 At least in a couple jurisdictions in which --

1 that were interviewed, it was evident that when the LEA
2 approaches an operator of a site and starts developing
3 information about what they're doing and how they're doing
4 and identifies them as a C&D processing site, they also
5 share that information with their counterparts at the land
6 use and code enforcement. When the code enforcement
7 people or the land use people get that information, it
8 moves up higher on their priority list in terms of
9 determining whether or not it's consistent with land use.

10 And because of that process, many of these
11 sites -- or many of the seven sites resulted in the land
12 use people indicating that they shouldn't have been there
13 because they're inconsistent with land use and should have
14 gone to the land use and got that approval prior to
15 operating.

16 So when that became evident, then you now have
17 the LEA asking for compliance with these regulations, and
18 then you have the land use entity asking for compliance
19 with the land use requirements. And I think the
20 combination of those resulted in some of these operators
21 deciding to cease operations.

22 BOARD MEMBER PEACE: We're having some land use
23 problems, because they're identified now like a waste
24 facility, not a recycling facility?

25 PERMITTING AND INSPECTION BRANCH MANAGER: No.

1 That wasn't the issue.

2 It was that no matter how they were identified by
3 the state, they were inconsistent with local land use.
4 And they weren't caught prior to this, because, for
5 example, in one jurisdiction I was told that they have a
6 backlog, a case load of over 6,000 complaints and issues
7 relative to land use that they're slowly whittling away.
8 So it was probably on that list somewhere, but they hadn't
9 gotten to it yet. So these would have been people that
10 started bringing in material, processing it, without
11 getting the local land use approvals prior.

12 So seven have ceased. Thirty are still
13 operating. Of those 30, LEAs indicate that 14 of them as
14 of today have the approvals that are required, either
15 notification or a permit, and 16 are still without their
16 approvals, either notification or the permits.

17 And the reasons given by LEAs for that is
18 incomplete submittals of the application materials or the
19 notification materials, the fact that the sites are not
20 identified currently in the NDFE for the host
21 jurisdiction. The land use issues have been raised again,
22 inconsistency with land use and the operator needing to
23 work with the land use entity to get permission on that,
24 as well as CEQA. And the CEQA plays in that some of these
25 sites are in the process of working with the LEA are

1 describing operations that are beyond what they're
2 currently doing. So they're growing the operations, and
3 those expansions haven't been reviewed in CEQA. So that's
4 requiring additional CEQA review.

5 Board staff have discussed these various issues
6 with LEAs, especially the land use issue, because at least
7 in a couple scenarios, the LEAs have indicated they're
8 holding up the solid waste facility permits waiting for
9 some determination on the land use decision. And so we
10 are working with LEAs to clarify the relationship between
11 the solid waste facility permit process and the land use
12 process, so that they can, you know, get past that and
13 move forward in processing these permits.

14 When asked of the LEAs if there were any unique
15 issues relative to the C&D regs in terms of, like, the
16 requirement for scales or IIPP and the permit and that
17 sort of thing, the LEAs indicated that those were not the
18 issues that were holding up these facilities from getting
19 the appropriate approvals.

20 BOARD MEMBER PEACE: Have you been asking these
21 questions of LEAs? Have you asked these questions of the
22 operators?

23 PERMITTING AND INSPECTION BRANCH MANAGER: Again,
24 staff's focus has been working with the LEAs and getting
25 the list and getting this information. We realize that to

1 really get the full picture, we really need to, you know,
2 sit down with some operators, if not all of them, and
3 interview them in depth about their ability to continue to
4 comply with these regulations, as well as perhaps the
5 effect of these regs on business plans or decisions
6 they're making about growing their facilities, if there's
7 something in the regs that are preventing them from
8 growing so they move from one tier to the other.

9 We have not collected that data. And that is
10 something that can be done. It would, in my view, involve
11 some sort of survey or sitting down with operators and
12 having a very detailed discussion with them to really
13 fully understand that aspect. So far we've just worked
14 with the LEAs to collect this information.

15 DEPUTY DIRECTOR LEVENSON: If I can just add
16 on to that last comment. Based on my experiences with the
17 composting infrastructure surveys that the Board has
18 conducted in the past where we asked some similar
19 questions of operators regarding impacts of regulations,
20 it's possible but very difficult to get information about
21 the impacts of regulations on business decisions that's
22 really verifiable. But it is something we can ask.

23 However, I think that if we went down that path,
24 this is probably a much broader survey. I think we
25 wouldn't want to just look at the regulations in

1 isolation. There are other factors that effect business
2 decisions, such as markets and specs, collection programs,
3 and so on. It's an issue in terms of what impacts
4 business decision cuts across a lot of the divisions here,
5 DPLA, Markets, P&E. So to undertake an operator survey
6 like we did with the composting structure is a pretty big
7 endeavor.

8 BOARD MEMBER PEACE: You don't think it's worth
9 it to go through that big endeavor to --

10 DEPUTY DIRECTOR LEVENSON: It could very well be
11 worth it. I just wanted to point out it is something we'd
12 need to do some thinking about in terms of the cross
13 divisional aspects and what factors to include in a survey
14 like that. The compost infrastructure survey, we ended up
15 with contracting two times I believe for about 50,000 each
16 time. I'm not positive on that.

17 PERMITTING AND INSPECTION BRANCH MANAGER: So
18 just to complete what -- sort of where we're at right now
19 today with the information that we have, given that we
20 don't have all the information that the Board may desire,
21 is that we basically have 16 sites out there that are
22 known C&D processing sites that don't have the appropriate
23 approvals as yet. We understand that probably about four
24 to five of those should have approvals within a month or
25 so of their notifications.

1 There's a few things that we can iron out with
2 the LEAs to get them where they need to be. But there are
3 going to be a number of sites that are currently
4 operating, will continue to operate without the approvals
5 necessary. And only two of those currently are under any
6 sort of enforcement action by the LEAs.

7 So staff's intent is to work with the LEAs and
8 the operators to get them through the approval process as
9 quickly as possible, be sure the LEAs understand their
10 responsibility relative to appropriate enforcement action,
11 and if necessary, move the LEAs through the process where
12 the lack of appropriate enforcement action can be
13 addressed by the Board.

14 BOARD MEMBER PEACE: So of the 30 identified C&D
15 facilities that are still in business, none of them have
16 gotten their permits yet? You said 14 of them are having
17 problems with the NDFEs and the CEQAs, and 16 still don't
18 have approvals. So there really haven't --

19 PERMITTING AND INSPECTION BRANCH MANAGER:
20 Fourteen have approvals. They're done.

21 BOARD MEMBER PEACE: Oh, they have.

22 PERMITTING AND INSPECTION BRANCH MANAGER:
23 Fourteen are all done. And these are slightly different
24 numbers than are in the item because they got updated
25 recently. They're off by one. But 14 are complete.

1 They're done. They have what they need. Sixteen --

2 BOARD MEMBER PEACE: And they've all gotten
3 permits for C&D facility? Or have some of them gotten
4 permits for having a transfer processing facility?

5 PERMITTING AND INSPECTION BRANCH MANAGER: Some
6 were transfer processing, a decision that the LEA operator
7 made to go that direction, as opposed to C&D. And the
8 main reason was that they were handling non-C&D material
9 and wanted to continue to handle non-C&D material, mostly
10 brush compostable material. So in order to handle a
11 compostable material waste stream and a C&D material waste
12 stream, they needed to get a transfer station permit.
13 Some were determined to be recycling centers. They
14 qualified for the excluded tier. Some are notifications.
15 Some are registration level.

16 BOARD MEMBER PEACE: Okay.

17 PERMITTING AND INSPECTION BRANCH MANAGER: So
18 that completes staff's presentation. And we seek any
19 direction the Board would like to give us relative to next
20 steps.

21 We're, again, suggesting to continue working with
22 the LEAs on getting these sites permitted. If enforcement
23 is an issue, to bring them through the process. And we'll
24 look for direction I think on if additional analysis, like
25 we've characterized, is something the Board would like us

1 to continue working one.

2 BOARD MEMBER PEACE: So you feel these
3 regulations are supporting the recycling of C&D debris
4 away from disposal? Have there been any creation of any
5 new facilities? Do we have enough facilities out there to
6 process all the C&D?

7 DEPUTY DIRECTOR LEVENSON: Ms. Peace, I think
8 that's something that's premature for us to answer at this
9 point. We've been focused on getting the existing known
10 sites into compliance with the regulations. But that's
11 what I was alluding to in terms of a broader survey of,
12 you know, what impact it had on diversion? What tonnages
13 are moving through these facilities? Are there other
14 facilities out there that they're not aware of? What are
15 the stumbling blocks to the development of C&D processing
16 a facilities of one type or another? Are they regulatory
17 barriers? Are they market barriers? Is it transportation
18 costs? It's a broad suite of factors that may impact and
19 vary by business to business.

20 So I think to get a more definitive answer to
21 that question, we would have to do some kind of more
22 sophisticated and -- cross media is the wrong word -- but
23 cross divisional survey, and we haven't sat down and
24 thought that out.

25 BOARD MEMBER PEACE: This C&D is such a large

1 section of the waste stream. I think that it is important
2 to know whether it's the regulations holding it back
3 getting it processed or is it markets? What is it that we
4 can help? What direction do we need to go to help get
5 that C&D stuff out of the waste stream?

6 EXECUTIVE DIRECTOR LEARY: Madam Chair, if I may.

7 CHAIRPERSON MOULTON-PATTERSON: Yes.

8 EXECUTIVE DIRECTOR LEARY: Howard opens the door
9 very nicely on following up on your comments, Member
10 Peace, given the report I gave to the Board and the
11 reaction that our diversion rate is to decline slightly in
12 2003. I think C&D is a large part of our waste stream
13 that we've contemplated putting together a cross
14 divisional effort focusing on all aspects of the
15 management of C&D throughout California to focus on
16 exactly that reason, the target of upping our diversion
17 rates by seeing what we can do in regards to the
18 management of C&D, study the marketplace from all
19 perspectives, and see what we can do to affect it.

20 So I appreciate your comments. I think I find
21 them very supportive of what we're envisioning launching
22 here very soon, working with folks from our Diversion,
23 Planning, Local Assistance, as well as Waste Prevention,
24 Market Development, and P&E and do a cross divisional
25 study.

1 CHAIRPERSON MOULTON-PATTERSON: Thank you,
2 Mr. Leary.

3 And certainly our direction would be to continue
4 working with the LEAs for the next 60 days on any issues,
5 and we would like you to report back to us and also
6 schedule any public hearings as needed.

7 DEPUTY DIRECTOR LEVENSON: Thank you. We will
8 follow up with those directions.

9 CHAIRPERSON MOULTON-PATTERSON: Thank you very
10 much for the report.

11 Okay. I'd like to have about a ten-minute break
12 right now.

13 (Thereupon a recess was taken.)

14 CHAIRPERSON MOULTON-PATTERSON: Mr. Washington,
15 any ex partes?

16 BOARD MEMBER WASHINGTON: No, Madam. I'm up to
17 date.

18 CHAIRPERSON MOULTON-PATTERSON: Thank you.

19 Mr. Paparian, any ex partes?

20 BOARD MEMBER PAPARIAN: I'm up to date.

21 CHAIRPERSON MOULTON-PATTERSON: Thank you.

22 And I would like to acknowledge we received --
23 even though Item 17 has been pulled, we received a letter
24 that I'll be distributing to all Board members from the
25 West Valley Citizens Air Watch Group. So I would like the

1 record to reflect that.

2 Ms. Peace.

3 BOARD MEMBER PEACE: I'm up to date.

4 CHAIRPERSON MOULTON-PATTERSON: Thank you.

5 On to Number 11.

6 DEPUTY DIRECTOR LEE: Thank you, Madam Chair.

7 Good morning, Board members.

8 Item 11 is Discussion and Request for Rule Making
9 Direction on Noticing Revisions to the Proposed
10 Regulations for Waste and Used Tire Hauler Administrative
11 Civil Penalties for an Additional Comment Period for
12 Consideration of Adoption of the Proposed Regulations for
13 Waste and Used Tire Hauler Administrative and Civil
14 Penalties.

15 Tom Micha will make the staff presentation.

16 MR. MICHA: Good morning, Madam Chair, and
17 members of the Board. My name is Tom Micha.

18 The Board previously authorized staff to file
19 with the Office of Administrative Law, or OAL, to go out
20 for comment on changes amending the existing waste tire
21 hauler registration and manifesting regulations. OAL
22 published the notice for this rule making on January 30th
23 of this year. A 45-day written comment period ended with
24 a public hearing on March 19th.

25 Today staff is bringing before the Board one

1 comment received during the comment period, as well as
2 staff-recommended changes to the proposed regulations
3 package.

4 The one comment stated that -- or one commentor
5 stated he is opposed to any regulatory increase in the
6 maximum penalties that can be assessed to waste tire
7 haulers. And he sites a letter he received from the Board
8 stating that as a registered hauler, he may be liable for
9 up to \$25,000 for violation of the manifesting
10 requirements. The commentor believes that this amount is
11 excessive for an honest mistake made in filling out the
12 manifest forms.

13 Staff agrees that \$25,000 is excessive for a
14 mistake made -- an honest mistake made in filling out the
15 manifest form. And that is why proposed Table 1 in
16 Section 18464 indicates the first offense for a manifest
17 violation is 100 to \$500. The hauler would also have an
18 opportunity to appeal any fine to an Administrative Law
19 Judge. In addition, the maximum penalty of \$25,000, is
20 set in statute and not regulation. Therefore, the Board
21 is not increasing the maximum penalty through regulation.
22 To the contrary, the Board is limiting the penalty through
23 proposed Table 1. Staff does not recommend changing the
24 proposed regulations based on this comment.

25 Aside from this one comment, staff is

1 recommending a few changes to the proposed regulations.
2 These proposed changes are double underlined to
3 distinguish them from the previous single underlined
4 changes that were noticed for the 45-day comment period.
5 Copies are available on the back table. Except for two
6 changes, the others are nonsubstantive.

7 The addition of Subsection 18457(e) presented on
8 page 3 of the agenda item is a first substantive change.
9 This proposed subsection will prevent waste and used tire
10 haulers, while prior enforcement actions against them
11 resulted in denials, suspension, or revocation of their
12 registration, from operating under another registered
13 hauler. This will also apply to a driver responsible for
14 disciplined registration.

15 The second substantive change is the proposed
16 requirement in Section 18459.1(d) that every generator,
17 hauler, and end-use facility display in a conspicuous
18 location a Board-issued certificate with the tire program
19 identification number for that business.

20 Staff recommends that the Board direct staff to
21 circulate the proposed changes for an additional 15-day
22 comment period. Staff will bring this matter back to the
23 Board at its May meeting with a recommendation that the
24 Board adopt the regulations, so long as no further
25 substantive changes are required.

1 That concludes staff's presentation.

2 CHAIRPERSON MOULTON-PATTERSON: Thank you very
3 much.

4 We do have a public speaker, Terry Leveille, TL &
5 Associates.

6 MR. LEVEILLE: Thank you, Madam Chair and Board
7 members.

8 I'm here representing the Tire Retread
9 Information Bureau. And just as an informative few
10 comments, at one point we were looking at a different form
11 of registration, essentially, or different forms of
12 documentation from the traditional manifest system, and we
13 still are. And at one point we had looked at possibly
14 attaching some new provisions to these regulations.

15 Unfortunately, because of some lax oversight at
16 the Department of Transportation, the federal, we found
17 that anybody that applies for a retreaders number from the
18 feds doesn't really -- isn't really subject to any kind of
19 oversight. So it complicates our issue a little bit.

20 And with the help of your staff, who's been very
21 supportive and very helpful, particularly Don Dier, we're
22 looking at possibly inserting in some emergency regs that
23 we've been given an indication would probably go into
24 effect in the first of July or so that would incorporate
25 basically the concerns that we had. And I just wanted to

1 kind of clarify that for you if you had any questions.

2 Thank you.

3 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you,
4 Terry. I don't see any questions.

5 May I have a motion?

6 BOARD MEMBER WASHINGTON: Madam Chair.

7 CHAIRPERSON MOULTON-PATTERSON: Mr. Washington.

8 BOARD MEMBER WASHINGTON: If there's no
9 questions, I'd like to move adoption of Resolution
10 2004-94, Consideration of Adoption of the Proposed
11 Regulations for the Waste and Used Tire Haulers Civil and
12 Administrative Penalties.

13 BOARD MEMBER PAPARIAN: Second.

14 CHAIRPERSON MOULTON-PATTERSON: Motion by Mr.
15 Washington, a second by Mr. Paparian to approve --

16 STAFF COUNSEL BRECKON: Excuse me, Madam Chair.
17 Wendy Breckon.

18 We're not asking for adoption right now of the
19 regs. As a title states, we're asking for direction to go
20 out for a 15-day comment. Or if you didn't agree with the
21 changes that we're proposing, that you would adopt the reg
22 package as it was prior to the double underlining changes.

23 CHAIRPERSON MOULTON-PATTERSON: Sorry. I saw
24 this resolution in there. Thank you. Then we'll go on
25 with number 12.

1 DEPUTY DIRECTOR LEE: Thank you, Madam Chair.

2 Item 12 is Consideration of Scope of Work and
3 Contractor for the 6th Waste Tire Management Conference,
4 Tire Recycling Management Fund --

5 STAFF COUNSEL BRECKON: Excuse me. This is Wendy
6 Breckon, again, Staff Counsel. So can I just have it
7 clearly stated for the record that you directed staff to
8 go out for 15-day comment, if that's what your direction
9 is?

10 CHAIRPERSON MOULTON-PATTERSON: Yes. So
11 directed.

12 DEPUTY DIRECTOR LEE: Item 12, Consideration of
13 Scope of Work and Contractor for the 6th Waste Tire
14 Management Conference, Tire Recycling Management Fund,
15 Fiscal Year 2003/2004.

16 Diane Nordstrom will make the staff presentation.

17 MS. NORDSTROM: Good morning, Madam Chair and
18 members of the Board.

19 Item 12 is the Consideration of the Scope of Work
20 and Contractor for the 6th Waste Tire Management
21 Conference. The Board previously allocated \$100,000 for
22 the 6th Waste Tire Management Conference at its May 2003
23 meeting in its approval of the second edition of the Five
24 Year Plan for the Waste Tire Recycling Management Program.

25 The 6th Waste Tire Management Conference is

1 proposed to be a two-and-a-half day conference held in the
2 Southern California area in the spring of 2005. Because
3 the Recycled Products Trade Show is being held at the same
4 time in Ontario, California, Board staff is working
5 together to combine the two events. Staff anticipates
6 that approximately 200 people will be in attendance and an
7 estimated 40 speakers will be presenting at this
8 conference.

9 The intent of the conference is to provide an
10 open forum for stakeholders to discuss waste tire
11 management issues. The target audience will include waste
12 tire generators, tire recyclers, tire recycling
13 researchers, local governments, tire grant recipients, the
14 Board, and Board staff.

15 The purpose of this contract is for the
16 contractor to plan and administer together with Board
17 staff the 6th Waste Tire Management Conference. Board
18 staff is recommending this contract be awarded to CSUS
19 because they have been our contractor for previous Tire
20 Conferences, and staff has been pleased with their
21 performance in fulfilling the requirements of this
22 contract.

23 Staff recommends the adoption of Resolution
24 2004-95 for the scope of work and adoption of Resolution
25 2004-96 for the contractor for the 6th Waste Tire

1 Management Conference Contract.

2 This concludes my presentation.

3 CHAIRPERSON MOULTON-PATTERSON: Thank you,
4 Mr. Paparian.

5 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.

6 I had a few things on this.

7 I'm still not entirely comfortable with paying
8 the amount of about \$500 per participant in the
9 conference. But I talked about that in the context of the
10 Five Year Plan, and I think I lost on that issue, so I
11 won't pursue it more here. But I think over time we do
12 need to figure out what the cost benefit of some of this
13 stuff is that we're doing. Five-hundred dollars per
14 participant seems a little high to me.

15 In terms of the scope of work itself, I had a few
16 suggestions. On page -- the second page of the scope of
17 work in terms of soliciting speakers, one thing I noticed
18 at the last conference -- this was a little bit better
19 than the conference before that I was at. But I would
20 like to see a little bit more diversity amongst the
21 panelists in terms of the diversity of viewpoints.

22 So I would suggest in Task 3 that first line that
23 they look not just at trade associations, trade
24 publications, and local governments, but also expand that
25 list to include environmental and other non-governmental

1 organizations. So again, that we get a little more
2 diversity of viewpoints among some of the panelists that
3 they choose.

4 The list of items under Business and Market
5 Development, the last bullet, social marketing and product
6 stewardship, that ought to be two items. Those are two
7 different concepts. You ought to take that and make it
8 two bullets.

9 And this is more broad than just this scope. I
10 know that you've got boiler plate language here on the
11 written documents, the use of recycled content paper, and
12 so forth. I think we may need to revisit that, not just
13 for this scope of work, but for other scopes of work as
14 well. I think we're using some dated concepts. The 30
15 percent post consumer was certainly state of the art a few
16 years ago. But if you go to any copy machine in this
17 building, we're using 100 percent post consumer right now.
18 And I think we ought to be encouraging our contractors to
19 be doing that. And not only that, we ought to be
20 encouraging our contractors not to print items at all, but
21 to do things electronically.

22 So I don't want to hold up this scope of work in
23 trying to come up with a better boiler plate on the
24 written documents, but I think that I do want to flag that
25 so that next time we start getting scopes of work like

1 this, we start having some improvement in what we're
2 asking of our contractors for recycled content and then
3 source reduction, not producing as much as they do.

4 CHAIRPERSON MOULTON-PATTERSON: Thank you.

5 Ms. Peace.

6 BOARD MEMBER PEACE: Yeah. I agree with
7 Mr. Paparian that we should change that 30 percent to
8 100 percent. And also under the conference provisions
9 where we say usable cups, plates, and utensils, I think we
10 could also put in there reusable or compostable, since
11 that is now available. And since we're talking later we
12 are going to be asking for composting, that we should also
13 be putting our boiler plate language that, you know,
14 reusable or compostable plates and utensils.

15 Also under Task 3 where it says waste tire
16 recycling technologies where we're talking about
17 rubberized asphalt concrete, I would really like it
18 stressed that they talk about noise reduction and the cost
19 benefits of RAC. Can that be done?

20 MS. NORDSTROM: Yeah. I don't know if we want to
21 get -- because each thing will have more detail for each
22 subject. So I don't know if you want to specify it in the
23 scope of work with the contractor --

24 BOARD MEMBER PEACE: How do you make sure they
25 will be talking about the noise reduction?

1 MS. NORDSTROM: The Board staff will be actually
2 doing the agenda, so your input on the agenda would be
3 very helpful.

4 BOARD MEMBER PEACE: Okay. And then I, too, with
5 Mr. Paparian will be looking at this closer as we start
6 reviewing the Five Year Plan, because I do want to make
7 sure that, are we getting the \$100,000 worth of benefit
8 out of this only 200 people? That's something we'll be
9 looking at. I don't have any other questions.

10 CHAIRPERSON MOULTON-PATTERSON: Mr. Lee, did you
11 want to address that?

12 DEPUTY DIRECTOR LEE: Yeah. Thank you, Madam
13 Chair. I think almost all the recommendations are
14 legitimate, and we certainly can comply with.

15 Your comment, Mr. Paparian and Ms. Peace, with
16 regards to involvement of, you know, a wider range of
17 people, that's been our endeavor all along. I can, in
18 fact, recollect our last conference, again, some of the
19 speakers on -- at least one of the speakers on the
20 environmental side who wasn't able to attend and give
21 their scheduled presentation. So I don't think there's a
22 lack of effort on staff's part, again, you know, to try
23 and diversify, I think, the conference presentations. But
24 we will increase our endeavors in this area. We
25 understand your positions on this particular matter.

1 With regards to some of the changes -- first of
2 all, with regard to the overall value of the conference
3 itself, it's been my personal observation this has been
4 one of our most valuable venues for getting our message
5 out, for getting together with stakeholders, for hearing
6 where everybody is at on some of these major issues.

7 I think in past our efforts in this regard have
8 been well received not only by the Board but also by the
9 regulated community and stakeholders. We think when all
10 of that is considered, it turns out to be what we consider
11 a very cost effective use of funds. So we would hope that
12 as we go through the Five Year Planning process that you
13 would take that into consideration.

14 With regards to some of the standard contract
15 provisions, again, I think I concur with Mr. Paparian,
16 some of these appear to be somewhat dated. But my
17 understanding is they are the current contract language.
18 So I guess we will work with the appropriate admin
19 departments to see what needs to be necessary to freshen
20 those up a bit.

21 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.
22 And I appreciate Mr. Paparian and Ms. Peace's comments,
23 because I do believe that now is the time for the Board
24 members to mention what they'd like to see in the agenda.

25 Isn't that correct, Mr. Leary?

1 EXECUTIVE DIRECTOR LEARY: Always open to input,
2 Madam Chair, certainly.

3 CHAIRPERSON MOULTON-PATTERSON: I just want to
4 clarify that.

5 CHIEF COUNSEL CARTER: Madam Chair.

6 CHAIRPERSON MOULTON-PATTERSON: Yes.

7 CHIEF COUNSEL CARTER: Also to address
8 Mr. Paparian and Ms. Peace's request, we can put in an
9 updated provision in this scope of work with your
10 direction here. We will work with the markets and provide
11 what we feel is the most appropriate update language,
12 rather than deferring it to future scopes.

13 CHAIRPERSON MOULTON-PATTERSON: Thank you.

14 Did you wish to make the motion, Mr. Paparian?

15 BOARD MEMBER PAPARIAN: With the changes we've
16 discussed, a tinkering with a little bit of the language,
17 with what counsel just suggested, we have two resolutions.
18 I'll move first Resolution 2004-95 related to the scope of
19 work for the 6th Waste Tire Management Conference.

20 BOARD MEMBER WASHINGTON: Second.

21 CHAIRPERSON MOULTON-PATTERSON: So did you
22 include both of them or just one?

23 BOARD MEMBER PAPARIAN: One at a time.

24 CHAIRPERSON MOULTON-PATTERSON: We have a motion
25 by Mr. Paparian, seconded by Mr. Washington to approve

1 Resolution 2004-95.

2 Please without objection substitute the previous
3 roll call.

4 And did you want to make that next one?

5 BOARD MEMBER PAPARIAN: The next one is 2004-96,
6 which I'm moving, related to the Consideration of the
7 Contractor for the 6th Waste Tire Management Conference.

8 BOARD MEMBER WASHINGTON: Second.

9 CHAIRPERSON MOULTON-PATTERSON: Motion by
10 Mr. Paparian, again, and seconded by Mr. Washington for
11 2004-96.

12 Please substitute the previous roll call.

13 DEPUTY DIRECTOR LEE: Thank you, Madam Chair.

14 Item 13 is Consideration of the Grant Awards for
15 Senate Bill 1346, Rubberized Asphalt Concrete Grant
16 Program for Fiscal Year 2003/2004 and Fiscal Year
17 2004/2005.

18 Nate Gauff will make the staff presentation.

19 MR. GAUFF: Good morning, Madam Chair and Board
20 members. I'm Nate Gauff with the Special Waste Division.

21 This item is to consider the grand awards for the
22 Senate Bill 1346 Rubberized Asphalt Concrete Grant
23 Program. The Board allocated 1.1 million from Fiscal Year
24 03/04 and 1.2 million from Fiscal Year 04/05 towards this
25 program.

1 The Board approved the eligibility criteria
2 evaluation process and ranking categories at the September
3 meeting. Staff subsequently issued a NOFA and mailed that
4 NOFA to over 650 interested jurisdictions. We received
5 back -- I think in the agenda item it says 87
6 applications. We actually got 89, and that was due to a
7 numbering error by the Grants Admin Unit when we entered
8 in the applications.

9 Of those 89 applications, 70 were deemed eligible
10 for consideration for funding, and that's the list in the
11 Resolution. The total of the 70 applications comes to
12 \$1,189,480, of which we're recommending funding of 1.1
13 million from Fiscal Year 03/04, and the \$89,048 from
14 04/05.

15 What we're planning to do with the remaining
16 04/05 funds is to put out another solicitation when funds
17 become available after the budget act and offer another
18 solicitation to local governments for this program to
19 allocate -- or actually to give out the remaining funds.

20 Are there any questions?

21 CHAIRPERSON MOULTON-PATTERSON: I have a lot all
22 at once.

23 Mr. Washington.

24 BOARD MEMBER WASHINGTON: Just a brief question.

25 Nate, on this second B list for the allocation

1 for the 04/05, the City of Ontario \$662, what are they
2 going to do? It takes that much just to apply for the
3 grant.

4 MR. GAUFF: Yeah. What happened, that was the
5 cutoff of the 03/04 funds. If you look at the end of the
6 03/04 list on the A list, that same project number 44 is
7 listed. And what it was is the project was an \$8,000
8 project, and we had to split the funding. So they're
9 going to get the full \$8,000. The difference is they may
10 get one check cut from 03/04 funds and one check cut from
11 04/05 funds.

12 BOARD MEMBER WASHINGTON: Okay. Thank you, Madam
13 Chair.

14 CHAIRPERSON MOULTON-PATTERSON: Thank you.
15 Mr. Paparian.

16 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.

17 On that last item, that might be a good candidate
18 if we have a few dollars left over in the reallocation
19 just to make it easier.

20 This is fabulous. As I understand it, if you
21 figured out how many tires we're recycling through this,
22 it's about one-and-a-half million.

23 MR. GAUFF: It's not quite that many. It is over
24 one million tires equivalence that would be recycled if
25 all these grants are fully executed.

1 BOARD MEMBER PAPARIAN: I think that's great. I
2 think there's some real opportunities here. Mr. Myers in
3 the audience hasn't had a chance to figure out what he's
4 going to work on yet. But I think the Rubberized Asphalt
5 Program offers limitless opportunities for seeking public
6 attention to the good work we're doing and the good things
7 that we can do through our recycling programs.

8 CHAIRPERSON MOULTON-PATTERSON: And it's very
9 timely because we'll have a chance to tell Senator Kuehl
10 about it tomorrow at the Senate hearing, if it's approved.

11 And Ms. Peace.

12 BOARD MEMBER PEACE: So you said there's over a
13 million tires that are going to be recycled. So that's
14 about a dollar a tire.

15 MR. GAUFF: Roughly.

16 BOARD MEMBER PEACE: Roughly a dollar a tire.

17 I was just curious, because when you compare
18 these to how many tires, for the cost, are being used in
19 resurfacing and that sort of thing, that seems a lot more
20 cost effective.

21 I think we had a great response to this RAC Grant
22 Program. And since we should try to stimulate the dying
23 crumb rubber industry here in California by encouraging
24 RAC, when we look to start the review of the Five Year
25 Tire Plan, I think we should look in this area to do maybe

1 some more allocation adjustments to reflect this need.

2 I've already talked to our Public Affairs Office
3 to write an article that should be placed in every major
4 newspaper, as well as the local newspaper of each grantee.
5 And the article should include not only the cost benefits
6 and safety benefits, but stress the noise reduction
7 benefits of RAC. You know, they should have an article
8 that says, gosh, you know, this resurfacing of the roads
9 in our neighborhood are made possible by the Integrated
10 Waste Management Board. But, community, you are so lucky
11 because your roads are going to be so much quieter. And I
12 think we need to stress that.

13 And when we send out, say, like the NOFAs for the
14 second RAC grant cycle, we should also be putting in an
15 article similar, say, to this one here extolling the
16 benefits of RAC. When you send out the NOFAs to all the
17 jurisdictions, do you ever do anything like that?

18 MR. GAUFF: Typically, we don't, because, you
19 know, the Notice of Funds Available basically just lists
20 the parameters of the program, you know, and that type of
21 thing, deadlines, and the basic program information. We
22 don't typically add a lot of extra information to the
23 mailing.

24 BOARD MEMBER PEACE: You send them out to like
25 600 different, you know --

1 MR. GAUFF: In addition to posting it on our
2 website. So certainly some jurisdictions that I did talk
3 to got the information from the website also.

4 BOARD MEMBER PEACE: At least you can put some
5 links onto the website or something with these NOFAs.
6 Like right here this article here says, "When asphalt
7 rubber silenced the road noise on an Arizona freeway, the
8 public demanded more." So maybe if they knew that this
9 RAC was going to, you know, quiet the roads, you know, it
10 would be that kind of a big benefit, that maybe they would
11 more likely apply and want to look into the RAC grant
12 more.

13 MR. GAUFF: Well, I'll tell you, I don't know if
14 we want to tie it to the grants as much, but we are
15 planning on bringing an item next month to the Board to
16 talk about the Rubberized Asphalt Program options. And
17 that may be a more appropriate time to discuss, you know,
18 how to link these two together, if possible.

19 CHAIRPERSON MOULTON-PATTERSON: Well, I think it
20 would be great to send that out with the grant
21 application. You know, coming from a city and, you know,
22 public works directors, they have to know an awful lot.
23 But maybe they don't know in some little towns how great
24 this is. I think it would be a great thing to do.

25 BOARD MEMBER PEACE: I do, too. I think in my

1 community we have people complaining about the noise made
2 by all the traffic running 24 hours a day to the new
3 Indian casino down the street. They're trying to talk to
4 our supervisors and putting up sound walls and this and
5 that. If they knew they could resurface the road there
6 with RAC, that might help solve the problem. I think they
7 would be very interested. And hopefully by pushing the
8 noise reduction benefit of RAC that the people of
9 California, the public in California, like the public in
10 Arizona, will demand it be used more.

11 CHAIRPERSON MOULTON-PATTERSON: Thank you.

12 DEPUTY DIRECTOR LEE: Madam Chair, one question
13 to follow up on Mr. Paparian's remarks. He mentioned
14 about the possibility of reallocation for the Ontario
15 situation. And looking at this -- and I'd like to address
16 this to Nate as well so we can get a clarification. We
17 have about, I think, \$89,000 as part of this proposed
18 resolution that would be using '04 money.

19 Nate, is there any kind of administrative
20 advantage to proposing -- asking the Board to consider
21 this as reallocation as opposed to using the 04/05 moneys
22 for it?

23 MR. GAUFF: I think the advantage would be that
24 if the \$89,480 is done through reallocation, obviously
25 that would give us a full 1.2 million to offer the next

1 fiscal year and would most likely take away the
2 possibility if something happened with the budget where
3 those funds weren't available, these folks that submitted
4 the applications on this first solicitation would
5 certainly get funded, you know, without having to worry
6 about whether the budget is passed or money is swept or
7 anything like that for next year.

8 BOARD MEMBER PAPARIAN: Madam Chair, if I can
9 just follow up. I know there is going to be a big menu of
10 items for reallocation in the tire program. And you know,
11 I don't think we can commit at this point to whether this
12 would rise above other items or not.

13 The few hundreds dollars, I suspect, you could
14 absorb pretty easily. The 80,000, I think we have to look
15 at the bigger menu just to make sure we're consistent with
16 our overall priorities for the program.

17 DEPUTY DIRECTOR LEE: I understand your concern.
18 Like I said, I guess the language we were potentially
19 suggesting for the Resolution would preserve the option of
20 going to the reallocation. It wouldn't give any
21 additional priority for these '04 potentially 04/05
22 projects.

23 BOARD MEMBER PAPARIAN: And we've done that with
24 other tire-related grants in the last few months.

25 DEPUTY DIRECTOR LEE: I think some language could

1 be proposed in that, if the Board is interested.

2 STAFF COUNSEL BRECKON: This is Wendy Breckon,
3 Staff Counsel.

4 Perhaps we can revise the proposed resolution so
5 it would say the B list -- I'm looking at the second page
6 of the resolution. It would say, "The B list to be funded
7 from the reallocation of 03/04 -- or FY 03/04 funds or FY
8 2004/2005 funds, should it become available."

9 BOARD MEMBER PAPARIAN: That sounds good. We're
10 not committing to the reallocation yet until we get to the
11 reallocation item. We're making that clear.

12 Do you want me to move it?

13 CHAIRPERSON MOULTON-PATTERSON: I think Cheryl
14 wants to.

15 BOARD MEMBER PEACE: With that clarification, I
16 will move Resolution 2004-97, Consideration of the Grant
17 Awards for Senate Bill 1346 Rubberized Asphalt Concrete
18 Grant Program for Fiscal Year 2003/2004.

19 BOARD MEMBER PAPARIAN: Second.

20 CHAIRPERSON MOULTON-PATTERSON: We have a motion
21 by Ms. Peace, seconded by Mr. Paparian to approve
22 Resolution 2004-97 with the notes that were read into the
23 record.

24 Without objection, please substitute the previous
25 roll call.

1 And that brings us to Item 15.

2 DEPUTY DIRECTOR LEE: Thank you, Madam Chair.

3 Item 15 is Consideration of Approval of the
4 Evaluation of the Northern and Southern California
5 Rubberized Asphalt Concrete Technology Centers Report,
6 Fiscal Year 2002/2003, Contract Number IWMC 2025.

7 Nate Gauff will make the staff presentation.

8 MR. GAUFF: Good morning, once again.

9 This item is to present to you the evaluation
10 report that was done on the Northern and Southern
11 Rubberized Asphalt Concrete Technology Centers. This was
12 as a result of a couple years ago we started this process
13 with the allocation for the centers following the first
14 Five Year Plan.

15 We had one start with trying to get a contractor,
16 which we were unable to do. And subsequently on the
17 second effort, we did secure a contractor which was
18 Sjoberg Evashenk Consulting. They conducted their study
19 of the centers. And Marianne Evashenk is here from
20 Sjoberg Evashenk to give you a presentation on their
21 results.

22 And what I would like to also remind the Board,
23 as I mentioned earlier, is that this item is to look at
24 just the report and the evaluation effort that went on.
25 We are planning on presenting another item at the May

1 Board meeting to talk more about the recommendations and
2 the next steps for the rubberized program. But certainly
3 any questions you would have on the evaluation effort are
4 welcome.

5 I'll turn it over to Marianne Evashenk.

6 (Thereupon an overhead presentation was
7 presented as follows.)

8 MS. EVASHENK: Good morning. Thank you for
9 inviting me, Madam Chair, and members of the Board.

10 I'm Marianne Evashenk. I'm a partner with the
11 consulting firm Sjoberg Evashenk. We've been working on
12 this evaluation of the Northern and Southern California
13 technology centers. This was a very interesting project.
14 It involved a lot of different steps.

15 --o0o--

16 MS. EVASHENK: But overall, it was, I think,
17 satisfactory, and we had a wonderful time putting it
18 together for you.

19 We were tasked to review the program performance
20 of the Technology Centers, basically, an assessment of
21 their activities, the results of their efforts, and their
22 compliance with contract provisions. Generally, what we
23 found was both centers complied mostly with the majority
24 of the provisions of the contracts with the Board.

25 As you may remember, the contract with

1 Los Angeles began around June of 1997. There's been a
2 couple of amendments and another contract since then. And
3 then the Northern California Center opened around January
4 of 2000. We found that the staff in the center generally
5 respond effectively to the inquiries -- it doesn't want to
6 go.

7 --o0o--

8 MS. EVASHENK: I have it on 100 percent recycled
9 paper too.

10 We found that the centers respond effectively to
11 inquiries from the public agencies, that they attend
12 workshops. They make presentations and exhibit at trade
13 shows. They also provide personalized consultation to
14 local agencies as requested. We found they developed
15 attractive and useful educational and informational
16 materials, that they designed and implemented and maintain
17 a RAC website. And they operate toll-free hotlines for
18 inquiries into the program.

19 We also found -- we did a survey of -- actually
20 went out to 900 local agencies. Unfortunately, we've now
21 discovered that people do not open e-mails from people
22 they don't know. So it has created a whole new dynamic in
23 conducting surveys. And unfortunately, we didn't get
24 nearly the response we were hoping for and we resorted
25 back the sending faxes, which is extremely labor intensive

1 and difficult. However, we believe our findings are still
2 sound because they were overwhelming.

3 We found that about 92 percent of the people who
4 responded to our survey knew about RAC. We found that
5 about 40 percent of them had heard about the technology
6 centers, but only 28 percent of them had a clue about what
7 technology centers do. So what that tells us is that
8 they're not marketing themselves well enough.

9 --o0o--

10 MS. EVASHENK: We found that the centers
11 generally work in a reactive mode. If there are
12 inquiries, if they're asked to do something, they do an
13 excellent job. The feedback that we got was that the
14 people are very effective in their advice, that they're
15 very professional, that they know their product. They
16 know their industry. They're basically experts, but they
17 work in reaction.

18 We found that neither center had developed an
19 outreach program or protocol for a proactive RAC Program,
20 that there is no plans, no maps to achieve certain goals.
21 There is no -- there are no results or other things set
22 out so they could achieve it. They were generally just
23 doing what they needed to do under the contract
24 provisions.

25 We also found that the incentive programs that

1 were operated out of the Southern California Center were
2 generally unknown and underutilized. As we could tell, 18
3 percent of the people who told us that they had undertaken
4 RAC projects had utilized an incentive program. And there
5 was a lot of money left in those programs.

6 We also found that while the centers possess
7 expertise and experience in RAC use and in the industry
8 itself, that the staff at the technology centers really
9 devoted very little time to the RAC program. They're
10 County employees. And they have County responsibilities
11 and County jobs. And in Southern California we found they
12 spent about 90 hours a month working on RAC center related
13 activities. And in Northern California it was probably
14 closer to ten hours a month.

15 Although the contract provisions provided that
16 they have performance measures and provide reports on
17 effectiveness, generally they didn't develop or track any
18 of these measures. The reports that they give to the
19 Board are basically labor related, number of labor hours
20 committed and so forth. And sometimes there was anecdotal
21 information in there related to a workshop they provided
22 or a conference they had gone to or a call log.

23 We also found there's weak coordination and
24 collaboration between the Northern and Southern California
25 Centers. They have their own personality. They work

1 fairly autonomous from one another. There was some
2 information that they give out that is not necessarily
3 uniform, or sending out in a unified message.

4 And there's very little coordination or
5 collaboration between the centers and Caltrans. And
6 Caltrans, we believe, that particularly with the new grant
7 Caltrans has with the Board, there is a lot of opportunity
8 to leverage and coordinate projects and availability of
9 RAC statewide.

10 --o0o--

11 MS. EVASHENK: The performance factors outside of
12 the Center's controls we thought are worthy of mentioning.
13 As you talked about in your last item, there's still a
14 widespread perception that RAC is experimental than proven
15 and more conventional concrete. We know that ton for ton
16 it is, but that it can be applied in a lower volume, that
17 it's quieter, that it has a longer life, and so forth.
18 And we didn't perceive -- or the results of our evaluation
19 didn't demonstrate that people really are grasping that.

20 We also found that there is a cost differential
21 in the product between northern and southern regions that
22 seems to be an obstacle for some of the local agencies.
23 We've been told it's 25 to 38 percent higher in Northern
24 California than Southern California. It's more available
25 in Southern California. Seventy-two percent of the

1 respondents who said they had RAC projects were in
2 Southern California.

3 We are unclear on the effectiveness of the rebate
4 programs or the incentive programs. We don't know if it's
5 lack of publicity and the knowledge of the programs. We
6 don't know if the rebate amounts hadn't been enough in the
7 past, or we don't know if the project engineering
8 certification requirements are an obstacle. Anecdotally,
9 we were told all of those things, but there was no
10 prevalent answer to that question.

11 And kind of on a side note, when we're talking
12 about recycling tires in terms of the waste stream, we
13 were also told that crumb rubber tire producers in the
14 state use imported tires. Now if we didn't say it out
15 loud, we felt like perhaps we weren't doing our job. But
16 it was really outside the scope of our review.

17 --o0o--

18 MS. EVASHENK: In conclusion, our report finds
19 that the centers are reactive in nature, providing
20 services requested, rather than on proactive basis, that
21 the survey reveals that over the years the centers have
22 developed valuable materials, particularly their handout
23 materials, the brochures, the technical handbooks, and so
24 forth were very well accepted and praised, and that they
25 provided quality services when asked.

1 But we believe that the current contractual
2 organizational structure of imbedding the centers into the
3 County operations, where the staff isn't dedicated is not
4 working as intended, that we're not really getting the
5 results we're after. The staff just aren't giving the
6 time and attention to the centers that would allow them to
7 be as successful as they possibly can. Now, you're also
8 not paying for that, too. They're not charging hours that
9 they're not putting in.

10 Overall, under the current structure, we believe
11 the centers have limited effectiveness and are unlikely to
12 meet your expectations for the program. So we have some
13 recommendations.

14 --o0o--

15 CHAIRPERSON MOULTON-PATTERSON: Mr. Washington.

16 BOARD MEMBER WASHINGTON: When she's finished.

17 MS. EVASHENK: We think there's some
18 opportunities to consider the delivery of the program.
19 For example, the centers, either one or both in operation,
20 have developed some really great assets. They have a good
21 website. They answer the phone. They have the toll free
22 phone lines. They provide presentations at workshops.
23 They will display at conferences. And they provide one on
24 one advice and technical help as requested. But they're
25 not a proactive group.

1 So we're thinking why not take the best parts of
2 the centers and maybe reduce the contract to them and let
3 them do that area. And then perhaps either have the
4 centers contract or have the Board contract for somebody
5 full time to go out and develop a comprehensive strategic
6 plan for delivering the services, for getting out, getting
7 into the trenches, and talking to people at the local area
8 agencies, and going to the trade groups and so forth and
9 trying to really get a focused outcome-related program
10 where they coordinate and maybe conduct demonstration
11 projects.

12 We need some real successes -- or at least the
13 exposure of the real successes so people know, like in
14 your article, Madam, that RAC is quieter and that overall
15 the project is cheaper, and that it's proven. It's not
16 experimental, and that there's not a political risk of
17 approving a job with RAC, rather than traditional or
18 conventional concrete.

19 We believe this person can go out and build the
20 partnerships with Caltrans and with the stakeholders and
21 perhaps make the project more -- sorry -- the program more
22 successful.

23 So that could either be done under the umbrella
24 of a tec -- alternative, we could have the tech centers
25 have limited term positions where they actually designate

1 a person full time from their staff for a year. They have
2 the opportunity to go back to their old county job or
3 whatever, or that they hire a contractor or expert in to
4 go out and do this program.

5 So we were thinking that a more effective way of
6 delivering it would be to have somebody devoted to doing
7 this full time, you know, full court press, and have the
8 support of the existing assets that you've already
9 developed in the tec center or centers. We don't know if
10 there should be one or two.

11 --o0o--

12 MS. EVASHENK: Further, we think that there's
13 certain things that need to be done if the Board decides
14 to keep the current structure. One is that the centers
15 need a strategic plan. They need to have goals and
16 objectives. They need to have something to work for.
17 They need to have commitment to move forward. They need
18 to report on those measures and what the impact of these
19 activities are doing.

20 They need to have greater staff commitment in one
21 way or another, because it's just not enough time. We
22 have to be able -- to be able to make it effective,
23 somebody has to be concentrating their efforts on it.

24 Thirdly, we thought there's some other
25 opportunities for outreach. This can be done through the

1 centers or though this expert. But we think there could
2 be some electronic newsletters or some electronic updates
3 that would go to the stakeholders whereby, you know, the
4 news articles or the projects or whatever that come out
5 will be fully distributed.

6 There's also some other opportunities related to
7 working with Caltrans and leveraging their 12 district
8 offices and their big projects perhaps by leveraging the
9 materials and whatever with Caltrans, the smaller
10 jurisdictions, particularly in Northern California, that
11 have problems getting close enough to a RAC producer, and
12 also having it affordable to them could be brought down.
13 And that could be something that could be really important
14 to the program.

15 So do you have any questions for me?

16 CHAIRPERSON MOULTON-PATTERSON: We have a number
17 of questions, but I just want to say that was an excellent
18 report. I learned a lot. And I'd certainly like to see
19 us follow up on some of your suggestions. Thank you.

20 Mr. Washington was first.

21 BOARD MEMBER WASHINGTON: One question for you.
22 In terms of your survey, you talked about the e-mail and
23 fax. Were there any phone calls made?

24 MS. EVASHENK: Yes. And we actually had some
25 in-person interviews as well. We had some very

1 interesting interviews with the transportation and public
2 works people.

3 One of the other areas that we feel like is kind
4 of missing is the information that gets to the decision
5 makers, the people with the purse strings, and this
6 outreach needs to be concentrated not only in the public
7 works sector, but also to the people who make the
8 decisions relative to the budget of these projects. They
9 need to understand what they're voting for and committing
10 money to. I think if we ratcheted up that awareness to a
11 little bit higher level, we might have a better success
12 rate in having these projects approved with RAC than
13 conventional concrete.

14 BOARD MEMBER WASHINGTON: Your failure with the
15 e-mail is that people are just afraid to open up those
16 e-mails?

17 MS. EVASHENK: You know what we had to do is
18 start calling people and saying, you know, "We have sent
19 you this twice. Why aren't you opening it?" They say,
20 "Well, we don't open anything, especially from SEC
21 Consulting," you know. So our lesson for the future is to
22 have the Board send it out. It would be with their tag on
23 it. We might have much better luck in having the item
24 opened, because it's really easy to tabulate the results
25 once we get through.

1 We did develop a database of 900 stakeholders
2 that have many e-mail addresses. Almost all of them -- I
3 think 750 e-mail addresses, and 200, 250 faxes and phone
4 numbers and so forth. And we have given that database to
5 the Board and staff.

6 BOARD MEMBER WASHINGTON: Mr. Lee, this is the
7 second or third time -- I'm trying to find out what is the
8 problem. I mean, we sent them a letter from Senator
9 Scutia as well as now. With the contract, they mentioned
10 Caltrans. What's the problem we're facing with working
11 with CalTrans in terms of our RAC situation?

12 DEPUTY DIRECTOR LEE: Well, Board Member
13 Washington, I think at the last Board meeting I kind of
14 elaborated or alluded to some of these issues.

15 You know, basically we've been working with
16 CalTrans for a number of years now. We've given them
17 various grants totaling millions of dollars, and I think
18 that their performance on those has been spotty at best.
19 We're not convinced our efforts are really making any
20 inroads in changing the thinking over at Caltrans. We
21 seem -- for the most part, they accept our money but still
22 keep us at arm's length.

23 As I stated at the last Board meeting, I think
24 what we need is more statutory impetus, more looking at
25 mandates on Caltrans to utilize more RAC. I believe most

1 of the technical considerations to a large degree have
2 been addressed. Other states are satisfactorily utilizing
3 the product. But as Assemblymen Levine in his proposed
4 legislation 338, I think he's taking a hard look at this
5 independently. And that's come to the same kinds of
6 conclusions Board staff has. It's going to take more than
7 us trying to push on them or give them more money to
8 really effect their thinking.

9 And not only Caltrans. We need to make more of
10 an effort to get out to the local Public Works Districts
11 themselves. You know, we had hoped that our efforts were
12 geared at Caltrans initially, because they set the
13 example. They set a lot of prescriptive standards for
14 paving in the state. So having them on board is very
15 important.

16 But like I say, given the fact that, you know,
17 their performance in that regard has been less than
18 stellar, you know, we need to make some direct entreaties
19 to these Public Work Departments, because they are, in
20 fact, responsible for two-thirds of the paving that's done
21 in the state.

22 So for all these reasons, we haven't been as
23 successful with RAC as we need to be. And the staff
24 agrees with remarks made by the Board earlier in our
25 earlier items that RAC is -- we view this as one of the

1 areas where there needs to be more emphasis and more
2 cooperation from Caltrans.

3 BOARD MEMBER WASHINGTON: Thank you very much,
4 Madam Chair.

5 I will take a look at the Levine legislation to
6 see if we can get -- if that's the problem that they're
7 having with Caltrans jumping in on this, then perhaps we
8 should have been supporting some legislation that would
9 mandate Caltrans' participation in this. Because it makes
10 no sense to me we are constantly doing all these different
11 programs with the RAC, and Caltrans is not helping out
12 with this. This is absolutely absurd to me.

13 CHAIRPERSON MOULTON-PATTERSON: We're very
14 supportive of the legislation, so anything anyone can do.

15 Mr. Paparian is next.

16 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.

17 Just to follow up on that. There isn't yet a
18 director of CalTrans. But I know I'm acquainted with the
19 new Business Transportation and Housing Agency Secretary,
20 Sunne McPeak. And I'm hoping to help facilitate, maybe
21 with Madam Chair, a meeting with the new Director once
22 they're appointed with the Secretary hopefully. And I
23 know the Secretary of CalEPA, Mr. Tamminen, has a very
24 active interest in RAC specifically. So I think that
25 there's a number of approaches we can make to Caltrans to

1 try to get them moving in a more positive direction.

2 On the report itself, I know that staff was
3 initially reluctant on this report. But I want to commend
4 the staff for working well with the contractor. I want to
5 echo the Chair's comments that this is just an outstanding
6 report. This is the kind of stuff I love to see the
7 caliber of product that we've seen in this report. And I
8 think it provides us with an important road map to help us
9 understand where the centers are at and what we can do to
10 improve the work products of the centers. And I think
11 hopefully it will be viewed in a very constructive way.

12 I think the centers have done very good work to
13 date, and this will help us build on the good work and
14 take it to the next level and take it to a point where
15 we're able to more integrate the work of the centers into
16 the overall programs that I think we need to pursue to
17 assure the maximum use of RAC. So it's an excellent
18 report.

19 I look forward to the staff's item next month
20 about how we can move forward with implementation of this.
21 And I think that -- I'm sure that as you put this together
22 you'll probably see that there's a real interconnection
23 between what's going on at the RAC centers, what we talked
24 about a few minutes ago on the last agenda item, and with
25 the other work that needs to be done to promote the use of

1 RAC.

2 CHAIRPERSON MOULTON-PATTERSON: Thank you.

3 Ms. Peace.

4 BOARD MEMBER PEACE: I, as well, think this was
5 an excellent report. All the recommendations make good
6 sense to me.

7 What doesn't make sense to me is that they
8 haven't been doing all these things already for \$500,000 a
9 year. And I can tell you that's another thing I'm going
10 to be looking at when we review the Five Year Plan.

11 And another thing I want to say, on AB 33, the
12 Lloyd Levine Bill, the RAC Bill, we do need to get behind
13 that and we need to push that. But at this point it's
14 still only requiring Caltrans to use 15 percent -- to use
15 RAC in only 15 percent of their projects. And apparently
16 CalTrans is saying they already do that. So we need to
17 somehow get over there. And I've been over there, but we
18 need to find a way to say 15 percent is not enough.

19 DEPUTY DIRECTOR LEE: In the last discussions
20 that staff had with the Assemblyman Levine's office, there
21 was some consideration of considering the higher mandate
22 that would be phrased in over a number of years. I don't
23 know if that has made its way into any formal revisions to
24 the legislation. But I know the Assemblyman was thinking
25 in that direction.

1 BOARD MEMBER PAPARIAN: Madam Chair, we do have a
2 Resolution to accept the report.

3 CHAIRPERSON MOULTON-PATTERSON: Yes. Would you
4 like to move it?

5 BOARD MEMBER WASHINGTON: Excuse me, real
6 quickly.

7 Mr. Paparian, I remember last year you asked for
8 an audit of the RAC centers. Did that ever come to
9 fruition?

10 BOARD MEMBER PAPARIAN: This is essentially it.
11 I pushed initially for this -- the allocation for this
12 money for this project.

13 BOARD MEMBER WASHINGTON: Okay. All right.
14 Fine.

15 BOARD MEMBER PAPARIAN: This is the culmination.

16 CHAIRPERSON MOULTON-PATTERSON: Thanks for
17 pushing.

18 BOARD MEMBER PAPARIAN: In the resolution that we
19 have, you need to fill in the date. I don't know if you
20 caught that, the last "whereas."

21 So I'd like to move Resolution 2004-99 related to
22 the approval of the evaluation of the Northern and
23 Southern Rubberized Asphalt Cement Technology Centers
24 Report.

25 BOARD MEMBER WASHINGTON: Second.

1 CHAIRPERSON MOULTON-PATTERSON: We have a motion
2 by Mr. Paparian, seconded by Mr. Washington, to approve
3 Resolution 2004-99.

4 Without objection, please substitute the previous
5 roll call.

6 And, again, thank you for the excellent report.

7 BOARD MEMBER WASHINGTON: Madam Chair,
8 just before you go to the other one -- and I apologize.
9 Have you or will you be responding to Senator Escutia's
10 concerns as it related to these items?

11 CHAIRPERSON MOULTON-PATTERSON: Absolutely. And
12 we will be including some of those. Thank you. In fact,
13 Mr. Lee --

14 DEPUTY DIRECTOR LEE: We are working on the
15 response and --

16 CHAIRPERSON MOULTON-PATTERSON: I want to get
17 that out.

18 DEPUTY DIRECTOR LEE: Yes, ma'am.

19 CHAIRPERSON MOULTON-PATTERSON: Thank you.

20 Okay. Now I want to confer with my colleagues
21 right now. We only have three items left. Would you like
22 to just keep going? Is that okay with you?

23 I know Ms. Peace had an appointment, but she said
24 she can go.

25 So Items 20, 22, and 23. We're going to keep

1 going.

2 Mr. Levenson.

3 DEPUTY DIRECTOR LEVENSON: Thank you, Madam
4 Chair.

5 I think we can take care of these items in less
6 than half an hour, perhaps faster. I'm not sure how much
7 discussion there will be from the audience, though.

8 Item 20 is our Semi-Annual Update and Publication
9 of the Inventory of Solid Waste Facilities Which Violate
10 State Minimum Standards.

11 Leslie Newton-Reed is going to make the
12 presentation. Leslie is having some voice problems. So
13 if her voice fades, I'll chip in. We have other staff
14 that can answer any specific questions.

15 CHAIRPERSON MOULTON-PATTERSON: Thank you.

16 (Thereupon an overhead presentation was
17 presented as follows.)

18 MS. NEWTON-REED: Good morning.

19 CHAIRPERSON MOULTON-PATTERSON: Good morning.

20 MS. NEWTON-REED: The Board is required by the
21 Public Resources Code Section 44104 to maintain a list for
22 all facilities that violate state minimum standards and
23 publish it twice annually. This is an informational
24 agenda item only, and no Board action is required.

25 Since the October update, three facilities were

1 removed and two were added to the inventory list as shown
2 in Attachment 1. Three of the sites are on the inventory
3 for landfill gas violations as shown in the graph in
4 Attachment 2. Details on each facility are in Attachment
5 3.

6 We would like to take this opportunity to update
7 Board members on the inventory web page. Currently, the
8 information on Attachment 1 is directly transferred as a
9 static list on the web page. We have developed staff
10 business practices for the inventory to make it more
11 automated and have developed a proposed web page for
12 displaying inventory information.

13 I want to thank Donnaye Palmer and Meirve Davey
14 for creating this draft version of the web page.

15 May I direct your attention to the screen. From
16 this page, you can choose either current inventory or
17 historical inventory. And if we choose --

18 --o0o--

19 MS. NEWTON-REED: -- the current inventory, it
20 takes us to a page that looks very similar to Agenda Item
21 Attachment 1, which is currently how the inventory appears
22 on the web. For details on the facility, just click on
23 the facility name. We will use City of Clovis for an
24 example.

25 --o0o--

1 MS. NEWTON-REED: This takes us to another page
2 where specific information or the specific regulation for
3 which the facility was placed on the web is listed.
4 Although the information is static in these draft web
5 pages, in the future, the information will be generated
6 real time as the Swiss database is updated.

7 --o0o--

8 MS. NEWTON-REED: The home page also an inactive
9 link to historical inventory data. This search page is
10 still under construction. We are considering a six-month
11 time frame for the search and beginning the search date --
12 excuse me -- and the beginning search date not to proceed
13 April 1st, 2003, to coincide with the time that the
14 regulations became effective.

15 This concludes my presentation. Are there any
16 questions?

17 BOARD MEMBER PEACE: I just have one question.
18 In the item Coastal Material Recovery and Transfer Station
19 in Los Angeles has not met the compliance deadline and
20 that they're under an order which has been stayed. Is
21 this another problem we're having with the AB 59, and how
22 long has this been going on?

23 PERMITTING AND INSPECTION BRANCH MANAGER: Mark
24 de Bie with Permitting and Inspection.

25 Yes, it is an issue relative to the state. There

1 is a cease and desist order for the site, and the operator
2 is appealing that order. So the order is stayed until
3 that appeal can be heard and the issue resolved.

4 How long it's been going on? I want to say over
5 a year, probably longer, but thereabouts.

6 BOARD MEMBER PEACE: So it's not that you're not
7 trying to do anything about it. It's just that with the
8 AB 59 process, there's just not much we can do.

9 PERMITTING AND INSPECTION BRANCH MANAGER: Right.

10 CHAIRPERSON MOULTON-PATTERSON: Thank you.

11 Mr. Paparian, did you have comments?

12 BOARD MEMBER PAPARIAN: Just, you know, excellent
13 work on putting together the website and making more
14 information publicly accessible. We always appreciate
15 that.

16 CHAIRPERSON MOULTON-PATTERSON: Thank you.

17 DEPUTY DIRECTOR LEVENSON: I'd like to follow up
18 on that comment by indicating this is part of a broader
19 effort that IMB and others are undertaking to put more
20 enforcement and inspection related information up on the
21 web page. So you'll see more of this in the future.

22 CHAIRPERSON MOULTON-PATTERSON: I think I've seen
23 a big improvement on this. Thank you very much.

24 And thank you, with your voice. Appreciate it.

25 DEPUTY DIRECTOR LEVENSON: The next item is Item

1 22. We have two regulatory packages left. And the first
2 one is Item 22, which is the Public Hearing and
3 Consideration of Adoption of the Proposed Amendments to
4 Regulations for Local Enforcement Agency Certification
5 Requirements for the Technical Expertise.

6 This will be a very short presentation by Gabe
7 Aboushanab.

8 SUPERVISOR ABOUSHANAB: Good afternoon, Madam
9 Chair and Board members. Gabe Aboushanab on the LEA
10 Program Assistance and Evaluation Section.

11 As Howard mentioned, we're proposing a change to
12 Section 18072 of the LEA cert regs. It, in essence,
13 allows jurisdictions whose populations grow beyond 50,000
14 but does not exceed 80,000 to continue to use their LEA
15 workload analysis to determine the staffing level.

16 And basically we've been before the Board in
17 July. We were giving approval to have a formal rule
18 making process under way, and we have done so. No
19 comments were received during the 45-day comment period.
20 And unless you have any questions about it --

21 CHAIRPERSON MOULTON-PATTERSON: Questions? I see
22 none.

23 Mr. Washington, would you like to move this?

24 BOARD MEMBER WASHINGTON: Thank you, Madam Chair.

25 I'd like to move adoption of Resolution 2004-88,

1 Public Hearing and Consideration of Adoption of Proposed
2 Amendments to the Regulations for the Local Enforcement
3 Agency Certification Requirement for Technical Expertise.

4 BOARD MEMBER PEACE: Second.

5 CHAIRPERSON MOULTON-PATTERSON: We have a motion
6 by Mr. Washington, seconded by Ms. Peace to approve
7 Resolution 2004-88. Let's go ahead and call the roll on
8 this one.

9 See what happens when the Board gets hungry.

10 We'll just substitute the previous roll call. I
11 don't see any -- did you wish to speak?

12 MR. BELL: I'm going to give the next item.

13 CHAIRPERSON MOULTON-PATTERSON: We're rolling.
14 Thank you. Okay. Thank you very much.

15 Number 23, our last item.

16 And we do have a speaker, so don't let me forget.

17 DEPUTY DIRECTOR LEVENSON: This is Item 23, which
18 is a Discussion and Request For Rule Making Direction to
19 Notice for 45-Day Comment Period the Proposed Regulations
20 for Long Term Gas Violation.

21 This has been an item that's been before the
22 Board many times, and we're coming to you seeking your
23 approval to go out for 45-day comment.

24 And John Bell will be making the presentation for
25 you.

1 MR. BELL: Madam Chair and Board members, the
2 Long Term Gas Violation Policy has been in effect for
3 ten years now. In Item 23, this policy has been drafted
4 as a proposed regulation. This policy allows the Board to
5 concur with the solid waste facility permit revision,
6 while at the same time having a long term gas violation in
7 effect.

8 But the policy is extremely limited in scope. It
9 only applies to sites that take longer than 90 days to
10 correct the violation and sites that have no imminent
11 threat from the gas.

12 Over the past ten years, the policy's only been
13 applied 20 times at 20 facilities. When there is no
14 imminent threat, allowing a landfill to operate with the
15 landfill gas violation has, to date, created no known
16 environmental or public health problems. For landfills
17 under the policy, the in-place waste mass will continue to
18 produce about the same levels of landfill gas at the
19 property boundary, whether or not waste is accepted.

20 The draft regulation has been written to include
21 more than just existing policy. At the P&E Committee's
22 direction, staff has added the ten regulatory concepts
23 that you see in Attachment 2 and a provision for civil
24 administrative penalties.

25 Staff has held one informal public hearing on the

1 draft regulation. The draft regulation you see before you
2 in Attachment 3 contains changes that staff made based on
3 comments received at that informal hearing.

4 The following changes were not made from comments
5 received at the hearing. The draft regulation was left in
6 sequential order in which the evaluation and
7 implementation would occur. This shows how particular
8 steps having responsible parties are related. If the
9 regulations were, instead, arranged by operator, EA, and
10 Board requirements as suggested by some reviews, that
11 relationship is lost.

12 The draft regulation was left in Section 21685 of
13 the existing regulations and not piecemealed throughout
14 the regulations. This is because the regulation package
15 only applies to Board permit concurrence on an extremely
16 limited number of special case facilities with long term
17 gas violations and not for all permitted sites.

18 Also, we believe that placing portions of this
19 regulation throughout Title 27 would be confusing and
20 disjointed. The requirement in Section 4 for the EA to
21 make a determination that migrating gas does not
22 constitute an imminent threat and substantial threat was
23 left in the draft regulation because staff believes taking
24 this requirement out would create a loophole, which could
25 allow an EA never to consider the issue.

1 Finally, in Section 7, Board staff was left in as
2 the reviewer. This was directed by the Board in
3 Regulatory Concept 6 in Attachment 2, and also a staff
4 evaluation of the current status of the site is always
5 needed to make an informed recommendation to the Board and
6 permit concurrence.

7 So, in conclusion, staff asked that the Board
8 direct us to formally notice the long term gas violation
9 regulation. And I'd like to also mention that the Board
10 has received a letter from the Rural Counties
11 Environmental Services Joint Powers Authority in support
12 of this regulation.

13 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you
14 very much.

15 And with that, I will call on Larry Sweetser from
16 Rural Counties.

17 MR. SWEETSER: Larry Sweetser on behalf of the
18 Rural Counties Environmental Services Joint Powers
19 Authority. I'll be very brief.

20 Just letting you know one of our counties is --
21 all of our counties are definitely interested in this
22 package. One, in particular, has had the benefit of it.
23 Tehama County a few months ago did receive a permit from
24 the Board, even though they had some gas issues. I think
25 they're a model of trying to implement systems to control

1 the gas. So we appreciate that.

2 I think staff has done a great job in addressing
3 a lot of the concerns. We have a few more. But I think
4 it's best to proceed with this package. Let's get it on
5 the 45 days and go from there. So thank you very much.

6 CHAIRPERSON MOULTON-PATTERSON: Thank you very
7 much, Larry.

8 Mr. Paparian.

9 BOARD MEMBER PAPARIAN: Yeah. Thank you, Madam
10 Chair.

11 I think getting this thing into regulation, I
12 think, is going to be important. I think there have been
13 some questions. There's been some debate over whether
14 this has been an underground regulation in the past or
15 not. This will clearly make it an above ground regulation
16 dealing with an underground issue.

17 As we move along, there will probably be some
18 questions about the details of this. And I think it's
19 going to be important to make sure the Board is informed
20 about, you know, whether you're going in directions that
21 one constituency is promoting and another constituency may
22 have problems with. So we're clear as to what the
23 decisions are and the policy decisions we are making as we
24 move forward with the regulations.

25 DEPUTY DIRECTOR LEVENSON: We certainly will do

1 that. When we get any of the comments, we will provide
2 them to you and also summarize them in the agenda item
3 that we bring to you after the 45-day comment period.

4 CHAIRPERSON MOULTON-PATTERSON: So you do have
5 the direction to go ahead and notice it for the 45-day
6 comment period.

7 Thank you.

8 Any final public comments?

9 Okay. This meeting is adjourned. Thank you very
10 much.

11 (Thereupon the California Integrated Waste
12 Management Board, Board of Administration
13 adjourned at 12:12 p.m.)

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1 CERTIFICATE OF REPORTER

2 I, TIFFANY C. KRAFT, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing hearing was reported in shorthand by me,
7 Tiffany C. Kraft, a Certified Shorthand Reporter of the
8 State of California, and thereafter transcribed into
9 typewriting.

10 I further certify that I am not of counsel or
11 attorney for any of the parties to said hearing nor in any
12 way interested in the outcome of said hearing.

13 IN WITNESS WHEREOF, I have hereunto set my hand
14 this 28th day of April, 2004.

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